

NOTICE TO ALL STATE AGENCIES

A revised insertion order form, required when submitting documents for publication in the *Louisiana Register*, will be published in each issue of the Register, following the index pages. Please photocopy the form as needed and send to the Office of the State Register upon document submission.

C

C

C

CONTENTS

I. EXECUTIVE ORDERS	
MJF 96-23—1996 Corn and Grain Special Permits	773
MJF 96-24—Submission of Public Funds Expenditures to the Office of Contractual Review	773
MJF 96-25—Bond Ceiling Allocation, Method and Recordkeeping	774
MJF 96-26—Public Facilities Authority Bond Allocation	776
MJF 96-27—Emergency Operations Center	777
MJF 96-28—School-to-Work Council	780
MJF 96-29—Environmental Protection and Preservation Task Force	781
II. EMERGENCY RULES	
Agriculture and Forestry	
Livestock Sanitary Board—Diseases of Animals (LAC 7:XXXI.Chapter 117)	782
Economic Development	
Economic Development Corporation—Award Program—Infrastructure Financing (LAC 19:VII.Chapter 91)	783
Small Business Loan Program—Loan Policies (LAC 19:VII.Chapter 1)	787
Workforce Development and Training Program (LAC 19:VII.Chapter 81)	791
Environmental Quality	
Office of the Secretary—Land Disposal Restriction Variances (LAC 33:V.2271)(HW051)	794
Governor's Office	
Office of Rural Development—Projects and Funding (LAC 4:VII.1901-1903)	795
Health and Hospitals	
Office of the Secretary, Bureau of Health Services Financing—Community Care Program—Physician Management Fee	796
Hospital Program—Outpatient Rehabilitation Services	796
Hospital Reimbursement Methodology	797
Optional Targeted Case Management Services—Infants and Toddlers	797
Rehabilitation Clinic Services	798
Vaccines for Children	799
Labor	
Office of Workers' Compensation—Hearing Officer Rules (LAC 40:I.2123)	799
Public Safety and Corrections	
Gaming Control Board—Board Hearings (LAC 42); Repeal of Video Draw Poker Hearings and Sanction Procedures (LAC 42:XI.2423); Repeal of Gaming Enforcement Division Procedure for Riverboat License and Permit Hearings (LAC 42:XIII.2167)	800
Liquefied Petroleum Gas Commission—Permit Fees (LAC 55:IX.107 and 113)	801
Wildlife and Fisheries	
Office of Fisheries—King Mackerel Commercial Closure	802
Southern Flounder Commercial Harvest Closure	802
Wildlife and Fisheries Commission—1996-97 Fur Harvest Dates	803
1996-97 Waterfowl Hunting Seasons	803
III. RULES	
Civil Service	
Board of Ethics for Elected Officials—Purchases by Small Municipalities	804
Economic Development	
Racing Commission—First Aid Services (LAC 35:III.5711)	804
Superfecta (LAC 35:XIII.11701)	805
Education	
Board of Elementary and Secondary Education—Bulletin 746—Business and Office Education	806
Bulletin 746—Certification Requirements for Speech, Language and Hearing Specialists and Speech/Language Pathology Assistants-Level 1	806
Bulletin 746—Vocational-Technical Personnel	808
Bulletin 1191—School Transportation (LAC 28:I.915)	809
Technical College System Refund Policy (LAC 28:I.1523)	809
Student Financial Assistance Commission, Office of Student Financial Assistance—Bylaws	809

This public document was published at a total cost of \$2,520.00. Nine hundred, seventy-five copies of this public document were published in this monthly printing at a cost of \$5,520.00. The total cost of all printings of this document including reprints is \$2,520.00. This document was published by Bourque Printing, Inc., 13112 South Choctaw Drive, Baton Rouge, LA 70815, as service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-987. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

The Office of the State Register provides auxiliary aids for the *Louisiana Register* for visually impaired individuals. By appointment, oral presentation of the *Register* is available at the Office of the State Register, or an audio cassette tape of requested sections of the *Register* can be provided for the cost incurred by the Office of the State Register in producing such a tape. For more information contact the Office of the State Register.

Environmental Quality	
Office of Solid and Hazardous Waste, Hazardous Waste Division—EPA Documents (LAC 33:V.Chapters 1, 3, 5, 11, 15, 17, 19, 22, 25, 30, 31, 40, 43 and 49)(HW053)	813
RCRA IV Authorization Federal Package (LAC 33:V.Chapters 1, 5, 15, 22, 30, 31, 37, 40, 41, 43 and 49)(HW050)	830
Health and Hospitals	
Office of Public Health—Community Based and Rural Health Services (LAC 48:V.13301, 13303) (Repeal of (LAC 48:I.15101, 15103)	840
Sanitary Code—Sewage Disposal (Chapter XIII)	843
Office of the Secretary, Bureau of Health Services Financing—Experimental or Investigational Medical Procedures	844
Vaccines for Children Program	844
Public Safety and Corrections	
Office of State Police—Concealed Handgun Permit (LAC 55:I.Chapter 13)	844
Revenue and Taxation	
Sales Tax Division—Alternate Filing Period (LAC 61:I.4351)	852
Motion Picture Rental Exemption (LAC 61:I.4409)	853
Nonprofit Organization Exemption (LAC 61:I.4418)	854
Rental Exemption Definitions (LAC 61:I.4301)	855
Wildlife and Fisheries	
Wildlife and Fisheries Commission—Physically-Challenged Hunter Permit (LAC 76:XIX.105)	856
Pompano Permit (LAC 76:VII.703)	859
Reef Fish Daily Take and Size Limits (LAC 76:VII.335)	860
Timken Wildlife Management Area Visitor (LAC 76:III.327)	860
Waddill Wildlife Refuge (LAC 76:III.325)	861
IV. NOTICES OF INTENT	
Economic Development	
Board of Examiners of Certified Shorthand Reporters—Transcript Format Guidelines (LAC 46:XXI.1101)	862
Economic Development Corporation—Award Program—Infrastructure Financing (LAC 19:VII.Chapter 91)	863
Small Business Loan Program—Loan Policies (LAC 19:VII.Chapter 1)	864
Workforce Development and Training Program (LAC 19:VII.Chapter 81)	865
Education	
Student Financial Assistance Commission, Office of Student Financial Assistance—Tuition Trust Authority Bylaws	866
Environmental Quality	
Office of Air Quality and Radiation Protection, Air Quality Division—NESHAP for Source Categories (LAC 33:III.Chapter 51 and 53) (AQ144)	870
Office of Solid and Hazardous Waste, Hazardous Waste Division—Land Disposal Restriction Variances (LAC 33:V.2271) (HW051)	871
Solid Waste Division—Waste Tire (LAC 33:VII.Chapter 105) (SW021)	872
Health and Hospitals	
Office of Public Health—Sanitary Code—Commercial Seafood Inspection Program (Chapters XXII, XXIII, and XXIII-A)	875
Sanitary Code—Reportable Diseases	876
Sanitary Code—Tattooing (Chapter XXIII)	877
Office of the Secretary, Bureau of Health Services Financing—Case Management for Seriously Mentally Ill	878
Case Management Services for Mentally Retarded and Developmentally Disabled	879
Durable Medical Equipment—Customized Wheelchairs	879
EPSDT Health Services	880
Federally Qualified Health Centers	881
Medically Needy Program	882
Outpatient Hospital Laboratory Services	883
Pharmacy Program—Maximum Allowable Overhead Cost	884
Physicians Services—Reimbursement	885
Insurance	
Commissioner of Insurance—Regulation 60—Advertising of Life Insurance	886
Regulation 61—Statement of Actuarial Opinion	891
Repeal of Certain Existing Rules and Regulations	892
Labor	
Office of Workers' Compensation—Hearing Officer Rules (LAC 40:I.Chapter 21)	893
Public Safety and Corrections	
Gaming Control Board—Board Hearings (LAC 42); Repeal of Video Draw Poker Hearings and Sanction Procedures (LAC 42:XI.24233); Repeal of Gaming Enforcement Division Procedure for Riverboat License and Permit Hearings (LAC 42:XIII.2167)	894
Revenue and Taxation	
Income Tax Commission—Remittance of Tax Under Protest; Suits to Recover (LAC 61:I.4907)	895
Social Services	
Office of Family Support—Family Independence Project (LAC 67:III.1301)	896
Individual and Family Grant Program (LAC 67:III.4702 and 4703)	897
Minor Parents (LAC 67:III.1137 and 1138)	898
Parenting Skills Education (LAC 67:III.1136 and 1509)	899

Treasury	
Board of Trustees of the Teachers' Retirement System—Mandatory Submission of Contribution Reports on Computer Tape/Diskette (LAC 58:III)	900
Voluntary Deductions from Retiree Benefits Payroll (LAC 58:III)	901
Bond Commission—Line of Credit	902
Wildlife and Fisheries	
Wildlife and Fisheries Commission—Special Bait Dealer's Permits (LAC 76:VII.329)	903
V. COMMITTEE REPORTS	
House of Representatives	
Committee on Commerce—Economically Disadvantaged Business Development Program (LAC 19:I.Chapters 1-13)	903
Committee on Health and Welfare—Hospital Program—Outpatient Rehabilitation Services	904
Rehabilitation Clinic Services—Reimbursement	905
Senate	
Committee on Health and Welfare—Hospital Program—Outpatient Rehabilitation Services	905
Rehabilitation Clinic Services—Reimbursement	905
VI. POTPOURRI	
Agriculture and Forestry	
Office of Agricultural and Environmental Sciences, Horticulture Commission—Retail Floristry Examination	905
Environmental Quality	
Office of Air Quality and Radiation Protection, Air Quality Division—Application Submittal Deadline (LAC 33:III.507.C.1)	906
General Permit Modifications	906
Post 1996 Rate of Progress (ROP) and Attainment Demonstration (SIP Revision)	906
Office of Water Resources—NPDES Authorization Received	907
Governor's Office	
Oil Spill Coordinator's Office—Oil Spill Contingency Plan	907
Health and Hospitals	
Board of Embalmers and Funeral Directors—Embalmer/Funeral Director Examinations	909
Office of Public Health—WIC State Plan 1996-97	909
Social Services	
Office of Community Services—Residential Services to Foster Children	910

Faint, illegible text, possibly bleed-through from the reverse side of the page. The text is arranged in several paragraphs, but the characters are too light and blurry to transcribe accurately. Some words like "The", "and", "of", and "is" are barely discernible.

Executive Orders

EXECUTIVE ORDER MJF 96-23

1996 Corn and Grain Special Permits

WHEREAS: Louisiana's 1996 corn and grain acreage is the largest it has been since 1957, and farmers are anticipating an exceedingly large harvest;

WHEREAS: Louisiana's farmers are expecting to harvest an additional 320,000 acres of corn this year compared to last year, for a total of 550,000 acres of corn;

WHEREAS: Louisiana's 1996 corn harvest is anticipated to be three times larger than the size of its 1995 harvest;

WHEREAS: Louisiana's grain harvest has also experienced a dramatic increase in size and volume;

WHEREAS: this dramatic increase in the size of the corn and grain harvests over previous years is expected to create an equipment shortage for harvesting, transportation, and drying equipment;

WHEREAS: the lifting of the normal gross weight restriction of 80,000 pounds on the combination of vehicles needed to transport Louisiana's 1996 corn and grain harvest on the public highways of the state of Louisiana is needed to alleviate the anticipated equipment shortage; and

WHEREAS: R.S. 32:387 provides for the issuance of special permits by the secretary of the Department of Transportation and Development when it is in the best interest of the state, due to unusual circumstances, to raise the gross weight limitation of vehicles or combination of vehicles from 80,000 pounds up to 100,000 pounds;

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

SECTION 1: The secretary of the Department of Transportation and Development shall issue special permits, pursuant to R.S. 32:387, for the time period of the 1996 corn and grain harvest season, which shall not be construed to last beyond November 1, 1996, to the operators of vehicles transporting Louisiana's corn and grain products on Louisiana's state highway system authorizing weight limitations, for any combination of vehicles having a minimum of 18 wheels and transporting such products, not to exceed 100,000 pounds. The permits shall not apply to the Interstate Highway System.

SECTION 2: The fee for the permits shall be \$100 per permit issued and shall be processed like the annual special permits issued for the hauling of sugarcane, R.S. 32:387.7.

SECTION 3: This Order shall be effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially

and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 9th day of August, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9609#006

EXECUTIVE ORDER MJF 96-24

Submission of Public Funds Expenditures to the Office of Contractual Review

WHEREAS: Article VII, Section 14 of the Louisiana Constitution of 1974 (hereafter "Art. VII, §14") expresses the general prohibition that "the funds, credit, property or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private. Neither the state nor a political subdivision shall subscribe to or purchase the stock of a corporation or association or for any private enterprise.";

WHEREAS: Article VII, §14 also authorizes, for a public purpose, "Cooperative Endeavors" among the state and its political subdivisions or political corporations, and with the United States or its agencies, or any public or private association, corporation, or individual;

WHEREAS: R.S. 38:2193 mandates that, if the Attorney General is of the opinion that a contract of the state or any political subdivision violates Art. VII, §14, the Attorney General shall institute a civil proceeding to invalidate the contract if in his opinion such a proceeding is necessary for the assertion or protection of any right or interest of the state or political subdivision within the intendment of Art. VII, §14;

WHEREAS: since a cooperative endeavor agreement (hereafter "agreement") is a form of contract, it would be in the best interest of the state of Louisiana to have all such agreements reviewed by an arm of the state that is not a party to the agreement, prior to the agreement becoming effective, in order to limit the potential for litigation over the validity of the agreement;

WHEREAS: the best interest of the state of Louisiana is also served by monitoring the use of these agreements from both a legal and a budgetary perspective, and by providing a centralized record of these agreements; and

WHEREAS: the Division of Administration is charged with the responsibility for the state of Louisiana of overseeing the acquisition of supplies and services under contractual agreements and, therefore, has the expertise and necessary personnel to determine if these agreements are in violation of Art. VII, §14, or any procurement statutes or rules which regulate the manner in which the state and its agencies and political subdivisions must acquire supplies and services;

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

SECTION 1: Each state entity within the Executive Branch shall submit all cooperative endeavor agreements which require the expenditure of public funds to the Division of Administration, Office of Contractual Review, for its review and approval.

SECTION 2: All agreements shall be submitted in accordance with the rules prescribed by the Office of Contractual Review. To the fullest extent possible, all agreements shall be submitted for review at least 45 days prior to the effective date of the agreement. The Office of Contractual Review shall review the agreement as expeditiously as possible and return it to the submitting state entity.

SECTION 3: All agreements shall be submitted with a "BA-22" or other appropriate budgetary form evidencing the availability of funds.

SECTION 4: All agreements must contain a provision which will condition its implementation on the availability of funds to fulfill the requirements of the agreement, and the approval of the Commissioner of the Division of Administration.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state or of any political subdivision thereof are authorized and directed to cooperate in implementing the provisions of this Order.

SECTION 6: The provisions of this Order shall be effective upon signature of the Governor and shall remain in effect until amended, modified, terminated or rescinded by the Governor, or until terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 9th day of August, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9609#007

EXECUTIVE ORDER MJF 96-25

Bond Ceiling Allocation, Method and Recordkeeping

WHEREAS: Section 146 (hereafter "the Act") of the Internal Revenue Code of 1986, as amended (hereafter "the Code"), restricts the total principal amount of certain private activity bonds which exclude interest from gross income for federal income tax purposes under Section 103 of the Code, including the portion of government use bonds allocated to nongovernmental use as required by the Act (hereafter "Bonds") which may be issued within the state of Louisiana during each calendar year to a dollar amount equal to \$50 per person based on the most recently published estimate of

population for the state of Louisiana released by the United States Bureau of Census before the beginning of each such calendar year;

WHEREAS: Act 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act 51 of 1986") authorizes the Governor to allocate the volume limit applicable to the bonds (hereafter "the ceiling") among the state and its political subdivisions in such a manner as the Governor deems to be in the best interest of the State of Louisiana; and

WHEREAS: pursuant to the authorization of both the Act and Act 51 of 1986, the Governor hereby elects to (1) provide for the manner in which the ceiling shall be determined, (2) establish the method to be used in allocating the ceiling, (3) establish the application procedure for obtaining an allocation of bonds subject to such ceiling, and (4) establish a system of recordkeeping for such allocations;

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

Section 1: Definitions

1.1. Each abbreviation provided in the preamble of this Order, *supra*, shall have the same meaning throughout all the Sections of this Order.

1.2. The following definitions shall apply:

A. "Economic Development Bonds" means all types of bonds subject to the ceiling, other than Industrial Bonds, Housing Bonds, and Student Loan Bonds.

B. "Housing Bonds" means bonds subject to the ceiling and issued to provide housing described under Section 142(d) of the Code ("Qualified Residential Rental Project Bonds"), or issued to provide housing under Section 143 of the Code ("Qualified Mortgage Bonds").

C. "Industrial Bonds" means bonds subject to the ceiling (1) designated as "exempt facility bonds" in Section 142(a) of the Code (other than Housing Bonds), or (2) issued for facilities to treat, abate, reduce, or eliminate air or water pollution pursuant to the transition rules of the Tax Reform Act of 1986.

D. "Issuer" or "Issuers" means any entity or entities now or hereafter authorized to issue bonds under the Louisiana Constitution of 1974 or the laws of the State of Louisiana.

E. "Student Loan Bonds" means bonds subject to the ceiling and issued under the authority of Section 144(b) of the Code.

1.3. Any term not defined in this Order shall have the same meaning as in the Act.

Section 2: Determination of Ceilings for 1996 and Thereafter

2.1. The sum of \$215,750,000, which represents the amount of the ceiling determined by the staff of the Louisiana State Bond Commission (hereafter "the SBC staff") for the year of 1996 pursuant to the provisions of the Act and Executive Order No. EWE 92-47, represents the amount of \$50 times the most recently published estimate of population for the state of Louisiana released by the United States Bureau of Census before January 1, 1996, is ratified and established as the amount of the ceiling for the calendar year of 1996.

2.2. On or before January 15, 1997, and on or before the fifteenth day of each subsequent calendar year during the life of this Order, the SBC staff shall determine the amount of the ceiling for each calendar year by multiplying \$50 times the most recently published estimate of population for the State of Louisiana released by the United States Bureau of Census before the beginning of each respective calendar year. Upon determining the amount of the ceiling, the SBC staff shall promptly notify the Governor in writing of the amount determined.

Section 3: General Allocation Pool; Method of Allocation

3.1. A pool, designated as the "General Allocation Pool", shall be and is hereby created. The entire ceiling for each calendar year shall be automatically credited to this General Allocation Pool. Allocations for all types of bonds which require allocations from the ceiling under the Act may be requested, and granted, from this General Allocation Pool.

During the calendar year of 1996, and in each calendar year thereafter, at the discretion of the Governor, amounts shall be initially reserved for allocations from the General Allocation Pool as follows:

A. Until September 1 of each year, an amount equal to 50 percent of the General Allocation Pool shall be reserved for allocations for Housing Bonds;

B. Until September 1 of each year, an amount equal to 20 percent of the General Allocation Pool shall be reserved for allocations for Student Loan Bonds;

C. Until September 1 of each year, an amount equal to 20 percent of the General Allocation Pool shall be reserved for allocations for Economic Development Bonds; and

D. Until September 1 of each year, an amount equal to 10 percent of the General Allocation Pool shall be reserved for allocations for Industrial Bonds.

3.2. On September 1 of each year, any amounts remaining and not allocated for the purposes described in Subsection 3.1 (A) through (D) shall be combined, and allocations from such amounts remaining shall be granted, at the discretion of the Governor, without regard to any reservation for particular use.

3.3. The allocation of the ceiling from the General Allocation Pool shall be considered by the Governor on the basis of criteria established by the Governor.

3.4. The issuance of an Executive Order by the Governor, awarding a portion of the ceiling to a particular issue of bonds, shall be evidence of each allocation granted pursuant to this Order. A copy of such an Executive Order shall be promptly furnished to the State Bond Commission.

Section 4: Application Procedure for Allocations

4.1. All issuers in and of the State of Louisiana may apply for allocations.

4.2. An issuer which proposes to issue bonds for a specific project or purpose must apply for an allocation of a portion of the ceiling for the particular project or purpose by submitting an application to the SBC staff. The application form, if any, may be revised from time to time at the discretion of the Governor. However, at a minimum, all applications must contain the following information:

A. The name and address of the issuer of the bonds;

B. In the case of bonds, other than Student Loan Bonds or Qualified Mortgage Bonds, the name and mailing address of (1) the initial owner or operator of the project, (2) an appropriate person from whom information regarding the project can be obtained, and (3) the person to whom notification of the allocation should be made;

C. If required by the Code, the date of adoption by the issuer of an inducement resolution adopted for the purpose of evidencing "official intent";

D. The amount of the ceiling which the issuer is requesting be allocated for the project or purpose of the application, including, without limitation, a statement of the minimum amount of allocation that will support the issuance of the bonds and a general description of the project (including the address or other description of its location) or the purpose to be financed;

E. Either (1) a bond purchase agreement or other written commitment to purchase the Bonds for which an allocation is requested, executed by one or more purchasers, setting forth in detail the principal and interest payment provisions and the security for the bonds, accepted by the issuer or the beneficiary of the bonds; (2) in the case of a public offering of the bonds for which the allocation from the ceiling is requested, a binding bond purchase or underwriting agreement obligating the underwriter or underwriters to sell or purchase the bonds within 90 days of the receipt of an allocation, setting forth in detail the proposed principal and interest payment provisions and the security for the bonds, accepted by the issuer or the beneficiary of the bonds; or (3) a \$7,500 escrow deposit which will be forfeited in the event the bonds for which an allocation is granted are not delivered prior to the expiration of such allocation as provided in Subsection 4.5. The \$7,500 escrow deposit shall be returned to the party depositing the same without interest upon the substitution of the items described in (1) or (2), *supra*, or delivery of the bonds within the allocation period. In the event that such bonds are not delivered within the allocation period, the deposit shall be forfeited and deposited in the State Treasury, unless the failure to deliver such Bonds is the result of the State Bond Commission denying approval of such Bonds, in which case the deposit shall be returned to the party depositing same, without interest;

F. A schedule showing the project time or projected timing of the use of the bond proceeds;

G. Information necessary to evidence compliance with the criteria established by the Governor; and

H. A letter from bond counsel, addressed to the Governor, expressing that the bonds for which an allocation is requested are subject to the ceiling.

4.3. Upon receipt of the application required by Subsection 4.2, the SBC staff shall determine if the requirements of Subsection 4.2 have been met. When it is determined the requirements have been met, the SBC staff shall immediately forward a copy of the application to the Governor.

4.4. Until November 1 of each year, the maximum amount of allocation that may be granted for any project or purpose in any calendar year (other than for Qualified Mortgage Bonds issued by the Louisiana Housing Finance

Authority or Student Loan Bonds) shall not exceed \$20,000,000 or 10 percent of the ceiling for that year. If an issuer submits a request for an allocation that is in excess of this authorized amount, the SBC staff shall retain the application for consideration of the allocation of additional amounts which may only be granted on or after November 1 of that year.

4.5. Any allocation from the ceiling (other than carryforward allocations described in Subsection 4.8, *infra*) shall expire unless the bonds receiving the allocation are delivered by the earlier of (A) 90 days from the date the notice of allocation is mailed to the person designated, or (B) December 27th of the calendar year granted. In the event the allocation of the ceiling for a particular project or purpose expires as provided in this Subsection, the issuer may resubmit its application for an allocation of a portion of the ceiling for such project or purpose. The application of the issuer relating to such project or purpose shall be reviewed in chronological order of receipt of the resubmission.

4.6. On November 1 of each year, the SBC staff shall determine the remaining amount of the ceiling and shall submit to the Governor for consideration all applications for allocations of bonds in excess of the permitted amounts.

4.7. The SBC staff shall maintain accurate records of all allocations and all bonds delivered. All issuers of bonds which have received an allocation shall notify the SBC staff of the delivery of bonds within five days after the delivery of such bonds and shall specify the total principal amount of bonds issued. The SBC staff shall provide to any person so requesting, within a reasonable time: (A) the amount of unallocated ceiling remaining on the date such request is made; (B) a list of allocations (naming the issuer and amount of allocation) which have been made and the date of each allocation; (C) a list of applications being held by the SBC staff which have requested a larger allocation than permitted; and (D) a list of bonds which have been given an allocation and have been delivered.

4.8. If the ceiling exceeds the aggregate amount of Bonds issued during any year by all issuers, the Governor may allocate such excess to issuers for use as a carryforward for one or more carryforward projects permitted under the Act by issuing an Executive Order for all carryforward projects for which an application has been submitted that contains the elements required by Subsection 4.2, and for which a request to be treated as a carryforward project has been received by the SBC staff. The SBC staff shall notify the issuers which are allocated a portion of the ceiling for a carryforward project at least five days prior to the last date an election to carryforward a portion of the ceiling may be made.

4.9. This Order only relates to bonds subject to the private activity bond volume limitation set forth in the Act. No issuer shall apply for or be entitled to an allocation from the ceiling for bonds which are not subject to the private activity bond volume limitation set forth in the Act.

4.10. The Governor may modify, amend, supplement or rescind this Order to reflect any change in federal or state legislation; provided, however, that any modification, amendment, supplementation or rescission shall not rescind any allocation granted for a project or purpose pursuant to the

terms of this Order if such allocation is required under federal law in order to maintain the tax-exempt status of the bonds issued for such project or purpose.

4.11. Notwithstanding any provision in this Order to the contrary, if the Governor determines it to be in the best interest of the State of Louisiana, because a project or purpose serves a crucial need or provides an extraordinary benefit to the State of Louisiana or to an area within the State of Louisiana, through the issuance of an Executive Order, the Governor may authorize allocations in any amount or grant any or every portion of the ceiling, and for any purpose.

Section 5: Miscellaneous Provisions

5.1. The responsibility of the SBC staff as set forth in this Order shall be exercised by the SBC staff independent of any of its other duties and responsibilities owed to the Louisiana State Bond Commission.

5.2. The Governor will certify in each Executive Order which grants a portion of the ceiling to a particular issue of bonds that said bond issue meets the requirements of Section 146 of the Code.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 27th day of August, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9609#008

EXECUTIVE ORDER MJF 96-26

Public Facilities Authority Bond Allocation

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for the allocating bonds subject to the private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for this calendar year 1996 (hereafter "the 1996 Ceiling"), (2) the procedure for obtaining an allocation of bonds under the 1996 Ceiling and (3) a system of central record keeping for such allocations;

WHEREAS: the Louisiana Public Facilities Authority has requested an allocation from the 1996 Ceiling to be used in connection with providing funds for the purchase of student loans which bear interest rates at approximately 1 percent below the rates established by the United States Department of Education and which (1) are made (a) to residents of the state of Louisiana attending a post-secondary school located within or without the state, or (b) to an out-of-state resident

attending a post-secondary school located within the state; (2) are guaranteed; (3) are "eligible student loans" within the meaning of the Higher Education Act of 1965 (hereafter "the Higher Education Act"); and (4) meet certain additional requirements under financing documents (hereafter "the Student Loan Program"). "Eligible student loans" includes consolidation loans and other loans which are guaranteed and meet all the requirements of the Higher Education Act and applicable financing documents; and

WHEREAS: the governor has determined that the Student Loan Program serves a crucial need and provides a substantial benefit to the state of Louisiana within the meaning of Subsection 4.11 of MJF 96-25;

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

SECTION 1: The bond issue, as described in this Section shall be and is hereby granted an allocation from the 1996 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$36,000,000	Louisiana Public Facilities Authority	Student Loan Revenue Bonds

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1996, provided that such bonds are delivered to the initial purchasers thereof on or before November 25, 1996.

SECTION 4: Due to the extraordinary benefit to the State of Louisiana served by the granted allocation, to the extent that any provision of this Order conflicts with any of the provisions of MJF 96-25, the provisions of this Order are permitted and shall prevail pursuant to Subsection 4.11 of MJF 96-25.

SECTION 5: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 6: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 7: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially

and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 27th day of August, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9609#009

EXECUTIVE ORDER MJF 96 - 27

Emergency Operations Center

WHEREAS: the State of Louisiana may be subjected to different types of emergencies and disasters of varying magnitudes;

WHEREAS: the State of Louisiana must be prepared to respond and effectively react to all the emergencies and disasters thrust upon it;

WHEREAS: effective planning will mitigate the effects that emergencies and disasters will have on the citizens of the State of Louisiana;

WHEREAS: effective planning includes coordinating plans for emergency operations between all departments and agencies of the state; and

WHEREAS: this coordinated effort can best be achieved through the Louisiana Military Department, Office of Emergency Preparedness;

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

SECTION 1: The Director of the Office of Emergency Preparedness, Military Department (hereafter "Director"), shall have the authority to activate and deactivate the State Emergency Operations Center, and to exercise overall direction and control of emergency and disaster operations for the State of Louisiana.

SECTION 2: A decision by the director, to activate the State Emergency Operating Center, shall constitute implementation of the Louisiana Emergency Operation Plan (hereafter "Plan").

SECTION 3: The plan shall prescribe rules, regulations, and procedures for operations which may be implemented should an emergency or disaster strike the State of Louisiana or an area within the state.

SECTION 4: The plan shall be binding on all local governments or political subdivisions of the state authorized or directed to conduct emergency management operations, and on all departments and agencies of the State of Louisiana.

SECTION 5: The director, or the director's designee, shall coordinate the activities of all organizations involved in emergency management in the State of Louisiana and shall perform all other duties as provided for in this order.

SECTION 6: The primary and the support responsibilities for the emergency services of the various agencies, departments, offices, entities, or organizations, are as follows:

ANNEX	ASSIGNMENT	DEPARTMENT/ AGENCY	PRIMARY/ SUPPORT
ANNEX A	Communication and Warning	Louisiana Office of Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Governor - Division of Administration	S
		Office of State Police	S
		Department of Transportation and Development	S
ANNEX B	Damage Assessment	Department of Wildlife and Fisheries	S
		Louisiana Office of Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Office of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		Governor - Office of Elderly Affairs	S
		Governor - Oil Spill Coordinator	S
		Department of Health and Hospitals	S
		Department of Labor	S
		Department of Natural Resources	S
		Department of Social Services	S
		State Police	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
ANNEX C	Donated Goods	Volunteer Organizations	P
		Louisiana Office of Emergency Preparedness	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Economic Development	S
		Department of Health and Hospitals	S
		Department of Social Services	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Volunteer Organizations	S
ANNEX D	Emergency Direction and Control	US Army Corps of Engineers	S
		US Coast Guard	S
		US Department of Agriculture - SCS	S
		DEPARTMENT/ AGENCY	PRIMARY/ SUPPORT
		Louisiana Office of Emergency Preparedness	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality/LRPD	S
		Governor - Division of Administration	S
		Governor - Office of Elderly Affairs	S
		Governor - Oil Spill Coordinator	S
		Governor - Office of Business Advocacy	S
		Department of Health and Hospitals	S
		Department of Justice	S
		Department of Labor	S
		Department of Natural Resources	S
Department of Social Services	S		
State Police	S		
Department of Transportation and Development	S		
Department of Wildlife and Fisheries	S		
Volunteer Organizations	S		
US Army Corps of Engineers	S		
US Coast Guard	S		
US Department of Agriculture - SCS	S		
ANNEX E	Energy	DEPARTMENT/ AGENCY	PRIMARY/ SUPPORT
		Department of Natural Resources	P
		Louisiana National Guard	S
		Department of Transportation and Development	S
ANNEX F	Engineering and Traffic Management Services	DEPARTMENT/ AGENCY	PRIMARY/ SUPPORT
		Department of Transportation and Development	P
		Louisiana National Guard	S
		Department of Health and Hospitals	S
		US Army Corps of Engineers	S
		US Department of Agriculture - SCS	S

ANNEX	ASSIGNMENT	DEPARTMENT/ AGENCY	PRIMARY/ SUPPORT
ANNEX G	Fire Fighting	Department of Agriculture and Forestry	P
		Louisiana National Guard	S
		Department of Culture, Recreation and Tourism	S
		Department of Wildlife and Fisheries	S
		Volunteer Organizations	S
ANNEX H	HAZMAT	DEPARTMENT/ AGENCY	PRIMARY/ SUPPORT
		State Police	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Environmental Quality	S
		Department of Health and Hospitals	S
		Department of Natural Resources	S
		Department of Wildlife and Fisheries	S
US Coast Guard	S		
ANNEX I	Information Management	DEPARTMENT/ AGENCY	PRIMARY/ SUPPORT
		Louisiana Office of Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality/LRPD	S
		Governor - Division of Administration	S
		Governor - Office of Elderly Affairs	S
		Governor - Oil Spill Coordinator	S
		Governor - Office of Business Advocacy	S
		Department of Health and Hospitals	S
		Department of Justice	S
		Department of Labor	S
		Department of Natural Resources	S
		Department of Social Services	S
State Police	S		
Department of Transportation and Development	S		
Department of Wildlife and Fisheries	S		
Volunteer Organizations	S		
US Army Corps of Engineers	S		
US Coast Guard	S		
US Department of Agriculture - SCS	S		
ANNEX J	Law Enforcement and Security	DEPARTMENT/ AGENCY	PRIMARY/ SUPPORT
		Office of State Police	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
US Coast Guard	S		
ANNEX K	Legal Issues	DEPARTMENT/ AGENCY	PRIMARY/ SUPPORT
		Department of Justice	P
		Louisiana National Guard	S
		Governor - Division of Administration	S
ANNEX L	Mass Feeding	DEPARTMENT/ AGENCY	PRIMARY/ SUPPORT
		Department of Corrections	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Economic Development	S
		Department of Environmental Quality	S
		Department of Social Services	S
		Department of Wildlife and Fisheries	S
Volunteer Organizations	S		
ANNEX M	Medical and Sanitation	DEPARTMENT/ AGENCY	PRIMARY/ SUPPORT
		Department of Health and Hospitals	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Environmental Quality	S
ANNEX N	Oil Spill	DEPARTMENT/ AGENCY	PRIMARY/ SUPPORT
		Department of Transportation and Development	S
		Volunteer Organizations	S
		Governor-Oil Spill Coordinator	P
		Louisiana Office of Emergency Preparedness	S
		Louisiana National Guard	S
Department of Agriculture and Forestry	S		
Department of Environmental Quality	S		
Department of Natural Resources	S		
State Police	S		

ANNEX	ASSIGNMENT	DEPARTMENT/ AGENCY	PRIMARY/ SUPPORT
		Department of Wildlife and Fisheries	S
		Volunteer Organizations	S
ANNEX O	Public Information	Louisiana Office of Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality/LRPD	S
		Governor - Division of Administration	S
		Governor - Office of Elderly Affairs	S
		Governor - Oil Spill Coordinator	S
		Governor - Office of Business Advocacy	S
		Department of Health and Hospitals	S
		Department of Justice	S
		Department of Labor	S
		Department Natural Resources	S
		Department of Social Services	S
		State Police	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Volunteer Organizations	S
		US Army Corps of Engineers	S
		US Coast Guard	S
		US Department of Agriculture - SCS	S
ANNEX P	Radiological	Department of Environmental Quality/LRPD	P
		Louisiana Office of Emergency Preparedness	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Health and Hospitals	S
		Department of Natural Resources	S
		State Police	S
		Department of Transportation and Development	S
ANNEX Q	Search and Rescue	Department of Wildlife and Fisheries	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Office of State Police	S
		Department of Transportation and Development	S
		US Coast Guard	S
ANNEX R	Shelter Operations Control	Department of Social Services	P
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Governor - Office of Elderly Affairs	S
		Department of Health and Hospitals	S
		Volunteer Organizations	S
ANNEX S	Traffic Control/Evacuation	Office of State Police	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
ANNEX T	Transportation	Louisiana National Guard	P
		Department of Corrections	S
		Department of Economic Development	S
		Department of Education	S
		Governor - Office of Elderly Affairs	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		US Coast Guard	S
ANNEX U	Watershed Protection	Louisiana Office of Emergency Preparedness	P
		Natural Resources	S
		Department of Natural Resources	S
		Department of Transportation and Development	S
		US Army Corps of Engineers	S
		US Department of Agriculture - SCS	S

SECTION 7: Each of the foregoing departments, agencies, offices, entities, or organizations shall appoint an Emergency Coordinator and an alternate coordinator to act on their behalf during an emergency situation. Their names and phone numbers shall be furnished to the director.

SECTION 8: Each department assigned a primary responsibility shall submit implementing procedures to the director which shall set forth procedures for carrying out their assigned emergency functions. Each department shall maintain the procedures and keep them current.

SECTION 9: Each department assigned emergency support responsibilities shall assist their primary department in the preparation of procedures and any other documents necessary to support the plan.

SECTION 10: Each department assigned a primary or a support responsibility for an emergency service shall:

- staff the State Emergency Operations Center with the personnel during training exercises and emergencies as requested by the director;
- maintain and operate a 24-hour response capability in the department headquarters when the plan is implemented;
- participate in exercises of the plan when scheduled by the director;
- participate in and conduct training essential to implementation of their assigned emergency service;
- conduct an annual review to update the details of their implementing procedures and advise the director of needed modifications for their implementing procedures; and
- maintain logs, records and reporting system required by all state and federal laws, rules and regulations.

SECTION 11: All other departments and agencies not assigned a primary or supporting role in emergency services shall carry out whatever duties or services specified or directed by the Governor.

SECTION 12: All support plans prepared by local governments and by heads of state departments and agencies shall conform to the provisions of this Order.

SECTION 13: All departments, commissions, boards, agencies, and officers of the state, and any political subdivision thereof, are authorized and directed to cooperate in implementing the provisions of this Order.

SECTION 14: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 28th day of August, 1996.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9609#013

School-to-Work Council

WHEREAS: the economic strength of the state of Louisiana and the prosperity of its citizens depend, in part, on whether the youth of this state receive proper preparation for productive careers and livelihoods;

WHEREAS: the workplace of today is changing in response to factors such as heightened international competition and new technologies which cause the demand for unskilled labor to shrink, and undermines the earning power of unskilled labor;

WHEREAS: the state of Louisiana's educational and training systems have not kept pace with the changing needs of the workplace;

WHEREAS: eighty percent of the state of Louisiana's youth enter the workforce without first obtaining a college degree; consequently, many do not possess the academic or entry-level occupational skills necessary to succeed in the workplace;

WHEREAS: a substantial number of the youth of the state of Louisiana do not complete high school, especially those who are disadvantaged or have disabilities;

WHEREAS: the state of Louisiana lacks a comprehensive system to help its youth acquire the skills and abilities, and the knowledge and information needed to access the labor market and make an effective transition from school either to a career oriented job or to further education and training;

WHEREAS: the work-based learning approach, modeled after the time-honored apprenticeship concept, effectively engages student interest, enhances their skill acquisition, develops positive work attitudes, and prepares youth for highly-skilled, advanced-wage careers;

WHEREAS: the United States School-to-Work Opportunities Program has been established to provide a national framework for all states to develop high quality school-to-work transition systems that utilize workplaces as active learning environments within the educational process, 20 U.S.C.A. §1601, et seq.; and

WHEREAS: for the state of Louisiana to successfully develop a statewide school-to-work system, cooperation and collaboration are needed between business, labor, and government, and parents, students, and their communities;

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

SECTION 1: A Governor's School-to-Work Council (hereafter "Council") shall be established within the Executive Branch, Office of the Governor.

SECTION 2: All members of the council shall be appointed by and serve at the pleasure of the Governor. The council shall be composed of a Management Team, an Implementation Team, and an Advisory Team. The membership of those three teams shall be as follows:

(A) The membership of the Management Team shall consist of the following:

- (1) at least five representatives of business;

- (2) at least one representative of organized labor;
- (3) at least one representative of a training entity or organization;
- (4) at least one representative of Louisiana high school students;
- (5) the Chair of the Labor and Industrial Relations Committee of the Louisiana House of Representatives, or the chair's designee;
- (6) the Chair of the Education Committee of the Louisiana Senate, or the chair's designee; and
- (7) the Governor of the State of Louisiana, or the Governor's designee.

(B) The membership of the Implementation Team shall consist of the following:

- (1) the Secretary of the Department of Labor, or the secretary's designee;
- (2) the Secretary of the Department of Economic Development, or the secretary's designee;
- (3) the Secretary of the Department of Social Services, or the secretary's designee;
- (4) the Secretary of the Department of Public Safety and Corrections, or the secretary's designee;
- (5) the Superintendent of Education, or the superintendent's designee; and
- (6) at least two representatives of regional School-to-Work program partnerships;
- (7) at least two representatives of employers involved with a School-to-Work program;
- (8) at least one representative of organized labor involved with a School-to-Work program;
- (9) at least one representative of Louisiana high school students;
- (10) at least one representative of parents of Louisiana high school students; and
- (11) at least two representatives of the Office of the Governor.

(C) The membership of the Advisory Team shall consist of persons who are interested in and who have a specialized skill or knowledge beneficial to the School-to-Work program, and who are a member of or affiliated with a professional organization; the administration of a college, university or technical school; a recognized special interest group; a youth development organization; or a community-based non-profit organization.

SECTION 3: The chair of the council shall be appointed by the Governor.

SECTION 4: The council shall oversee implementation of a comprehensive School-to-Work plan for the state of Louisiana. Accordingly, the council's functions include, but are not limited to, the following:

- (A) spreading School-to-Work programs throughout every geographic area of the state of Louisiana, especially in economic development districts;
- (B) securing funding for School-to-Work Programs from private, public, and federal sources;
- (C) recruiting employer and employee partners for School-to-Work Programs;
- (D) awarding and overseeing regional partnership grants;
- (E) coordinating the content and framework of School-

to-Work Programs and incorporating industry-recognized skill standards and assessment methodologies;

(F) facilitating the development and training of staff for School-to-Work Programs and program partners;

(H) proposing School-to-Work Program legislation;

(I) linking School-to-Work Programs with other public and private workforce development efforts; and

(J) continually working to improve the statewide School-to-Work Program system.

SECTION 5: The council shall submit the School-to-Work Plan and all applications for federal grants and funding for School-to-Work Programs to the Governor for approval prior to their submission to the United States Secretary of Education and/or Secretary of Labor.

SECTION 6: The council shall report to the Governor quarterly and annually on all aspects of its administration of the School-to-Work Program. The reports to the Governor shall be made available to School-to-Work Program partners.

SECTION 7: Support staff for the council and facilities for their meetings shall be provided by the Office of the Governor.

SECTION 8: Council members shall not receive compensation or a per diem, nor shall they be reimbursed for travel expenses for their attendance at meetings. Nonetheless, for special events which necessitate overnight accommodations, the travel and accommodation expenses incurred while attending such meetings may be reimbursed, in accordance with state guidelines and procedures, upon the approval of the Commissioner of the Division of Administration.

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

SECTION 10: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS THEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 30th day of August, 1996.

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

ATTEST BY THE
GOVERNOR
Fox McKeithen
Secretary of State
9609#014

EXECUTIVE ORDER MJF 96 - 29

Environmental Protection and Preservation Task Force

WHEREAS: the natural beauty and the bounty of the state of Louisiana's environment are manifest in its marshes, swamps, bays, bogs, bayous, creeks, rivers, estuaries, lakes, hills, waterfalls, and woodlands, and in the Gulf of Mexico;

WHEREAS: these natural environmental habitats, with their unique florae and faunae, are a legacy to the citizens of this state, and are meant to be shared with all who visit Louisiana;

WHEREAS: the bounty of these nature areas draws citizens and visitors alike to take pleasure by hiking, hunting, birding, fishing, camping, canoeing, and swimming;

WHEREAS: the bounty of these nature areas not only provides pleasure and peace of mind for Louisiana's citizens and visitors, but also provides a livelihood to many citizens;

WHEREAS: Louisiana is also an industrial state, it must address industrial issues and concerns, while actively protecting and preserving its natural environment; and

WHEREAS: due to the competing interests which inherently exist between the environment and industry, the state of Louisiana would benefit by sponsoring structured forums wherein discussions and an orderly exchange of ideas can occur between environmentalists, conservationists, business interests, and industrialists on issues pertaining to advancements made and problem areas in environmental protection and preservation, and all other issues relating to the environment;

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

SECTION 1: The Task Force on Environmental Protection and Preservation (hereafter "Task Force") is hereby created and established within the Executive Branch, Office of the Governor.

SECTION 2: Members of the Task Force shall attend forums where they will actively participate in discussions to exchange their ideas, wisdom, expertise, and knowledge on environmental issues, particularly those pertaining to the protection and preservation of the environment.

SECTION 3: The goal of the Task Force is to facilitate discussions and exchanges between environmentalists, conservationists, business interests, and industrialists on prevailing environmental concerns, and recent advancements and accomplishments in environmental matters, including identifying pertinent issues, and identifying and evaluating viable solutions to those issues in light of present and future capabilities.

SECTION 4: In their capacity as a member, Task Force members, individually or as a group, shall not perform or be charged with the responsibility of performing any of the following:

- A. investigatory functions;
- B. participating in the management or administration of a governmental agency;
- C. discharging advisory, administrative, or programmatic responsibilities;
- D. issuing assignments or tasks to, or completing them for non-Task Force members;
- E. supervising or directing, or answering to, any governmental official, officer, or personnel;
- F. administering programs of the state, its agencies, departments, or divisions; or
- G. participating in any governmental transactions.

SECTION 5: In their capacity as a member of the Task Force, members shall not have access to nonpublic governmental records, reports, or information.

SECTION 6: The members of the Task Force shall be appointed by and serve at the pleasure of the Governor. Members of the Task Force shall be selected from the Governor's cabinet, from the various departments or offices in the Executive Branch, and from the general public, based upon their recognized expertise in an area pertaining to the environment, conservation, business, or industry and their desire to protect and preserve the natural environment of the state of Louisiana.

SECTION 7: A moderator shall be selected by the Task Force from its membership. The moderator shall schedule regular forum meeting sessions and may call special meeting sessions. The moderator shall also call the forums to order and adjourn the sessions.

SECTION 8: The Task Force shall create its own agenda of matters to be discussed.

SECTION 9: Office space and clerical support services shall not be provided for the Task Force, the moderator, or individual members by either the Office of the Governor or any other state agency.

SECTION 10: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 4th day of September, 1996.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9609#039

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Livestock Sanitary Board

Diseases of Animals (LAC 7:XXXI.Chapter 117)

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 3:2093, and R.S. 3:2223, the Livestock Sanitary Board finds that this Emergency Rule setting forth the approved vaccine to be used in the Brucellosis Eradication Program is required so that the supply of vaccine needed for the program will be readily

available and vaccinations under the program can continue uninterrupted. An Emergency Rule was adopted on May 14, 1996, which set forth the approved vaccine to be used in the brucellosis eradication program and will expire on September 11, 1996. The current regulations (which are in the process of being amended pursuant to the normal promulgation procedure) only allow the use of Brucellosis Strain 19 Vaccine. The board has been advised that the supply of Brucellosis Strain 19 Vaccine is currently in short supply in the state and there is the possibility that it will be completely unavailable for use in the eradication program in a matter of days. The board has further been advised that there is another vaccine which is readily available for use in the Brucellosis Eradication Program and which is effective in the prevention of Brucellosis and has advantages over the Strain 19 Vaccine. Failure to vaccinate cattle or a failure to vaccinate cattle in a timely manner and the resultant breakdown of the Brucellosis Eradication Program would cause imminent peril to public health, safety, and welfare of the citizens of this state in that a major disease prevention program will be compromised.

The effective date of this emergency rule is August 29, 1996, and it shall be in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter B. Cattle

§11734. Brucellosis Vaccination and Fee

A. Henceforth, all non-vaccinated heifer calves between four and 12 months of age must be vaccinated with USDA approved Brucellosis vaccine prior to being sold and there is hereby established and henceforth there shall be a fee to be paid by the Louisiana livestock auction markets of \$2 for each heifer calf vaccinated for Brucellosis, which fee shall be known as the Brucellosis vaccination fee.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221 and R.S. 3:2223.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:75 (February 1989), amended LR 22:

§11735. Livestock Auction Market Requirements

All cattle which are sold or offered for sale in livestock auction markets must meet the general requirements of LAC 7:XXI.11709 and the following specific requirements:

A. Brucellosis

1. - 3. ...

4. a. All non-vaccinated heifer calves, between four and 12 months of age, must be vaccinated with USDA approved Brucellosis vaccine prior to being sold.

4.b. - 7.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:237 (March 1985), amended LR 11:615 (June 1985), LR 12:501 (August 1986), LR 12:598 (September 1986), LR 13:556 (October 1987),

LR 14:220 (April 1988), LR 14:695 (October 1988), LR 15:813 (October 1989), LR 17:30 (January 1991), LR 18:837 (August 1992), LR 22:

§11737. Governing the Sale of Cattle in Louisiana by Livestock Dealers

All cattle which are sold or offered for sale by livestock dealers must meet the general requirements of LAC 7:XXI.11711 and the following specific requirements:

A. Brucellosis

1. - 2. ...

3. a. All heifer calves between four and 12 months of age must be vaccinated with USDA approved Brucellosis vaccine, prior to being sold.

3. b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:562, R.S. 3:2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 12:502 (August 1986), LR 13:558 (October 1987), LR 14:221 (April 1988), LR 17:31 (January 1991), LR 18:838 (August 1992), LR 22:

Dr. Robert McManus
Vice Chairman

9609#022

DECLARATION OF EMERGENCY

**Department of Economic Development
Economic Development Corporation**

**Award Program—Infrastructure Financing
(LAC 19:VII.Chapter 91)**

The Department of Economic Development, Economic Development Corporation, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to promulgate Emergency Rules of the Economic Development Award Program effective immediately. These rules will prescribe in accordance with LAC 19:VII.Chapter 91. This Emergency Rule shall remain in effect for a period of 120 days or until a final rule is promulgated, whichever occurs first.

These Emergency Rules recognize the immediate need to assist with the financing of infrastructure development as a means of strengthening the competitive position of Louisiana versus other states in the pursuit of business and industrial development.

Without these Emergency Rules, the public welfare is likely to be harmed as a result of likely disruptions in the expansion of industrial projects in the state, and the reduction in the number of companies locating or expanding operations in Louisiana, which will result in a decrease of the state's workforce.

These Emergency Rules are intended to mitigate the disruptions described above.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 8. Award Program

Chapter 91. Infrastructure Financing Program

§9101. Purpose

The purpose of the program is to provide financial incentives in the form of linked deposit loans, loan guarantees and grants to industrial or business development projects that promote economic development and that require state assistance for basic infrastructure development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:

§9103. Definitions

Applicant—the company or sponsoring entity requesting financial assistance from LEDC under this program.

Award—funding approved under this program for eligible applicants.

Basic Infrastructure—refers to the construction, improvement or expansion of roadways, parking facilities, bridges, railroad spurs, water works, sewerage, buildings, ports, waterways and publicly owned and maintained utilities.

Company—the for-profit business enterprise for which the project is being undertaken.

Eligible Lending Institution—any bank located in this state and organized under the laws of this state or any national bank having its principal office in this state which is authorized to make commercial loans, and which agrees to participate in the program as defined herein.

LEDC—the Louisiana Economic Development Corporation.

Linked Deposit—a certificate of deposit placed by the LEDC with an eligible lending institution at an interest rate discount (below existing investment rates), as determined and calculated by LEDC, provided the institution agrees to lend the value of such deposit to the company at an equivalent interest rate discount (below the existing borrowing rate applicable to the business at the time of the deposit of state funds in the lending institution).

Program—the Economic Development Award Program.

Project—means an expansion, improvement and/or provision of basic infrastructure that promotes economic development, for which LEDC assistance is requested under this program as an incentive to influence a company's decision to locate in Louisiana, expand its operations, or increase its capital investment.

Sponsoring Entity—the public or quasi-public entity responsible for performing and/or monitoring implementation of the project and monitoring the company's compliance with the terms and conditions of the award agreement.

Subprogram—the different components of the Economic Development Award Program, including, but not limited to, Grant Awards, Loan Guarantee Awards and Linked Deposit Loan Awards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:

§9105. General Principles

The following principles will direct the administration of the Economic Development Award Program:

1. Awards are not to be construed as an entitlement for firms locating or located in Louisiana.
2. An award must reasonably be expected to be a deciding factor in a firm's location, investment and/or expansion decisions.
3. The retention and strengthening of existing businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state.
4. Award amounts will not exceed the anticipated economic benefits to the state.
5. Appropriate cost sharing between project beneficiaries will be required.
6. Awards will be coordinated with the existing plans and programs of other government agencies whenever appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:

§9107. Subprogram Descriptions

A. Grant Awards. This subprogram provides grant funding to projects that require the provision, improvement and/or expansion of publicly owned basic infrastructure.

B. Loan Guarantee Awards. This subprogram provides loan guarantees to projects that require the provision, improvement and/or expansion of publicly or privately owned basic infrastructure.

C. Linked Deposit Loan Awards. This subprogram provides linked deposit loans to projects that require the provision, improvement and/or expansion of publicly or privately owned basic infrastructure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:

§9109. Eligibility

A. An eligible applicant for the Grant Award Subprogram must be one of the following:

1. a public or quasi-public state entity; or
2. a political subdivision of the state.

B. An eligible applicant for the Loan Guarantee and Linked Deposit Loan Award Subprograms must be one of the following:

1. a company currently residing in the state or planning to locate in the state;
2. a public or quasi-public state entity; or
3. a political subdivision of the state.

C. An applicant or sponsoring entity shall be considered ineligible if it has pending or outstanding claims or liabilities relating to failure or inability to pay promissory notes or other evidence of indebtedness including state or federal taxes, or

bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:

§9111. Criteria

A. Preference will be given to projects in industries identified by the state as target industries, and to projects located in areas of the state with high unemployment levels.

B. Preference will be given to projects intended to expand, improve or provide basic infrastructure supporting mixed use by the company and the surrounding community. Special purpose and single-use basic infrastructure solely for the company's use must pass a strong needs test.

C. Applicants must provide evidence satisfactory to LEDC that without an award, the project to be funded would not take place.

D. Companies must be in full compliance with all state and federal laws.

E. No assistance may be provided for Louisiana companies relocating their operations to another labor market area (as defined by the US Census Bureau) within Louisiana.

F. The minimum award request size shall be \$25,000.

G. Projects must create or retain at least five permanent jobs in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:

§9113. Application Procedure

An application for assistance must contain, but not be limited to, the following:

1. an overview of the company, its history, and the business climate in which it operates;
2. a description of the need for the project;
3. quantifiable objectives for the project and plans to measure the effectiveness of the project according to those objectives;
4. evidence of the number and types of jobs to be created or retained by the project;
5. a specific description of the project, including construction, operation and maintenance plans, and a timetable for the project's completion;
6. a detailed financial plan indicating the sources and uses of funds for the initial construction and annual operation and maintenance associated with the project;
7. a feasibility study supporting the project's viability, prepared by a qualified professional acceptable to LEDC;
8. an economic cost-benefit analysis of the project, including an analysis of the net economic benefit to the state and local communities, prepared by a qualified professional acceptable to LEDC. The economic analysis must include an assessment of the cost effectiveness of alternative approaches to achieve the project's objectives;
9. evidence that, without the proposed award, the project to be funded would not take place;

10. certification that the application is in compliance with all public meeting laws and public bidding laws applicable to the applicant and/or the sponsoring entity;

11. A letter from the sponsoring entity acknowledging its role in the project;

12. Any additional information LEDC may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:

§9115. Submission and Review Procedure

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

1. determine whether the project's financing needs are best met by the proposed award;

2. validate the information presented in the project feasibility study and economic analysis submitted with the application.

B. Upon determination that an application meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state, LEDC staff will then make a recommendation to the Secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

1. the Secretary of the Department of Economic Development;

2. LEDC's board of directors;

3. the Governor; and

4. the Joint Legislative Committee on the Budget.

C. If any application is rejected by any of the preceding entities, the application shall not be considered by the next succeeding entity unless first reconsidered and approved by the entity which initially rejected the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:

§9117. General Award Provisions

A. Award Agreement

1. Grant Awards. A grant agreement will be executed between LEDC, the sponsoring entity and the company. The agreement will specify the performance objectives expected of the company and the sponsoring entity and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, timelines for investment and job creation. Under the agreement, the sponsoring entity will monitor the progress of the project and reimburse the company from invoices submitted by the company on a form approved by LEDC.

2. Loan Guarantee Awards. A guarantee agreement will be executed in accordance with the following terms and conditions:

a. The agreement will specify the performance objectives expected of the company and the sponsoring entity

and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, timelines for investment and job creation.

b. The amount of the guarantee shall not exceed 75 percent of the amount of the loan.

c. The term of the guarantee shall not exceed 10 years.

d. The guarantee will cover the unpaid principal amount owed only.

e. The lending institution will be responsible for proper administration and monitoring of the loan and proper liquidation of collateral in case of default.

f. The loan shall not be sold, assigned, participated out, or otherwise transferred without prior written consent of the LEDC board.

g. If liquidation through foreclosure occurs, the lending institution will sell the collateral and handle the legal proceedings.

h. There will be a reduction of the guarantee in proportion to the principal reduction of the amortized portion of the loan. If no principal reduction has occurred in any annual period of the loan, a reduction in the guarantee amount will be made proportional to the remaining guarantee life.

i. Delinquency will be defined according to the lending institution's normal lending policy and all remedies will be outlined in the guarantee agreement. Notification of delinquency will be made to LEDC in writing and verbally in a time satisfactory to the lending institution and LEDC as stated in the guarantee agreement.

3. Linked Deposit Loan Awards. A deposit agreement will be executed between the eligible lending institution, LEDC, the company and the sponsoring entity, in accordance with the following terms and conditions:

a. The agreement will specify the performance objectives expected of the company and the sponsoring entity and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, timelines for investment and job creation.

b. The agreement shall specify the period of time in which the lending institution is to lend funds upon the placement of a linked deposit, and shall include provisions for the certificates of deposit to mature within a period not to exceed one year.

c. LEDC may renew a certificate of deposit in one-year increments but in no event shall the total period of time that a certificate of deposit is placed with any lending institution exceed ten consecutive years.

d. The period of time for which a certificate of deposit is placed with an eligible lending institution shall be neither longer nor shorter than the period of time for which the linked deposit shall be used to provide a loan at reduced interest rates.

e. Interest on the certificate of deposit shall be discounted below applicable market rates and shall be paid at the times determined by LEDC. The maximum interest rate discount allowed shall be five percent. LEDC shall receive investment interest rates on any certificate of deposit or any portion thereof for any period of time for which there shall be no corresponding linked deposit loan outstanding.

f. Linked deposits shall be available only for term loans.

g. Upon placement of a linked deposit with an eligible lending institution, the institution shall lend such funds to the entity specified in the linked deposit loan package. The loan shall be at a fixed rate of interest which shall be discounted below the current borrowing rate applicable to each eligible small business. The interest rate discount on the loan shall be equivalent to the interest rate discount on the certificate of deposit.

h. If it is discovered that the company or the sponsoring entity is not in compliance with the terms and conditions of the deposit agreement, the certificate of deposit may be matured and/or rewritten, if appropriate, without penalty to LEDC.

i. If the eligible lending institution fails to pledge securities to LEDC or if such securities shall be unsatisfactory to secure the certificate of deposit, LEDC, at its sole discretion, may declare the certificate of deposit and interest earned thereon, or any part thereof, to become immediately due and payable, notwithstanding any agreement or contract to the contrary.

j. Neither the State nor LEDC shall be liable to any lending institution in any manner for payment of the principal or interest on any loan made under the linked deposit loan subprogram. Any delay in payments or default on the part of a borrower shall not in any manner affect the deposit agreement between the eligible lending institution and LEDC in the event of a loan default, except as provided above.

B. Use of Funds

1. The program offers financial assistance in the form of linked deposit loans, loan guarantees and grants for eligible project costs specified in the award agreement.

2. Eligible project costs may include, but not be limited to, the following:

- a. engineering expenses;
- b. site acquisition;
- c. site preparation;
- d. construction expenses;
- e. building materials.

3. Project costs ineligible for award funds include:

- a. recurrent expenses associated with the project (e.g., operation and maintenance costs);
- b. company moving expenses;
- c. expenses already approved for funding through the state's capital outlay process for which the Division of Administration and the Bond Commission have already approved a line of credit and the sale of bonds;
- d. for grant awards, improvements to privately-owned property, unless provisions are included in the project for the transfer of ownership to a public or quasi-public entity;
- e. refinance of existing debt, public or private.

C. Amount of Award

1. The award shall not exceed 50 percent of the total project cost.

2. The award amount shall not exceed 25 percent of the total funds available to the program during a fiscal year, or \$1,250,000, whichever is greater.

D. Conditions for Disbursement of Funds

1. Grant award funds will be available to the sponsoring entity on a reimbursement basis following submission of approved invoices from the sponsoring entity to LEDC.

2. Award funds will not be available for disbursement until:

a. LEDC receives signed commitments by the project's other funding sources (public and private);

b. LEDC receives signed confirmation that all technical studies or other analyses (e.g., environmental or engineering studies), and licenses or permits needed prior to the start of the project have been completed or obtained;

c. all other closing conditions specified in the award agreement have been satisfied.

E. Compliance Requirements

1. Companies and sponsoring entities shall be required to submit periodic financial statements and progress reports, as specified in the award agreement, describing the progress towards the performance objectives specified in the award agreement. For the duration of the project, companies and sponsoring entities shall also be required to submit annually an analysis of the economic impact achieved by a project. Sponsoring entities may subcontract its monitoring and analysis responsibilities to another public, quasi-public or not-for-profit entity acceptable to LEDC, in the event the sponsoring entity lacks the ability to perform such functions.

2. In the event a company or sponsoring entity fails to meet its performance objectives specified in its agreement with LEDC, LEDC shall retain the rights to withhold award funds, modify the terms and conditions of the award (e.g., loan interest rate discount, guarantee percentage), and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:

Brett Crawford
Executive Director

9609#045

DECLARATION OF EMERGENCY

Department of Economic Development Economic Development Corporation

Small Business Loan Program—Loan Policies (LAC 19:VII.Chapter 1)

The Department of Economic Development, Economic Development Corporation, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to promulgate emergency rules of the Small Business Loan Program effective immediately. These rules will prescribe in accordance with LAC 19:VII.Chapter 1. This emergency rule shall remain in effect for a period of 120 days or until a final rule is promulgated, whichever occurs first.

The Louisiana Economic Development Corporation is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), in order to publish these rules because of a recognized immediate need to assist small- and medium-sized businesses with financial immediate need to assist low interest rate loans and loan guarantees.

Without these emergency rules, the public welfare is likely to be harmed as a result of likely disruptions in the efficient operation of Louisiana's capital markets, particularly for economically disadvantaged business owners and entrepreneurs who are most at risk of exclusion from the capital markets. Such market disruption would likely result from regulation-imposed bank capital constraints, as well as from the inherent risk aversion of banks, both of which will result in reduced capital investment, lower capital productivity, diminished job creation and increased risk of higher unemployment.

The proposed emergency rules are intended to mitigate the disruptions described above.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 1. Small Business Loan Program

Chapter 1. Loan Policies

§101. Purpose

A. The Louisiana Economic Development Corporation (LEDC) wishes to stimulate the flow of private capital, long-term loans, and other financial assistance for the sound financing of the development, expansion, and retention of small business concerns in Louisiana, as a means of providing high levels of employment, income growth, and expanded economic opportunities, especially to disadvantaged persons and within distressed and rural areas.

B. The Corporation will consider sound loans so long as resources permit. The Board of the Corporation recognizes that guaranteeing, participating, or lending money carries certain risks and is willing to undertake reasonable exposure.

AUTHORITY NOTE: R.S. 51:2312

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:445 (June 1989), amended LR 23:

§103. Definitions

Disabled Person's Business Enterprise—a small business concern which is at least 51 percent owned and controlled by

a disabled person as defined by the federal Americans With Disabilities Act of 1990.

Economically Disadvantaged Business—a Louisiana business certified as economically disadvantaged by the Department of Economic Development's Division of Economically Disadvantaged Business Development.

Small Business Concern—is defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

AUTHORITY NOTE: R.S. 51:2312

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:456 (June 1989), amended LR 23:

§105. Application Process

A. Any applicant(s) applying for either a loan guaranty or a loan participation will be required first to contact a financial lending institution that is willing to entertain such a loan with the prospect of a guaranty or a participation.

B. Information submitted to LEDC with the application representing the applicant's business plan, financial position, financial projections, personal financial statements and background checks will be kept confidential to the extent allowed under the Public Records Law, R.S. 44:1 et seq. Confidential information in the files of LEDC and its accounts acquired in the course of duty will be used solely by and for LEDC.

C. Submission and Review Policy

1. A completed Louisiana Economic Development Corporation application form, along with a complete business plan which shall contain but not be limited to the information in Appendix A, must be submitted no later than four weeks prior to the next scheduled Screening Committee meeting for consideration at the next scheduled board meeting of the Corporation following the Screening Committee meeting.

2. Economically disadvantaged businesses applying for assistance under that provision will have to submit certification from the Division of Economically Disadvantaged Business Development of the Department of Economic Development along with the request for financial assistance.

3. Businesses applying for consideration under the Disabled Person's provision shall submit adequate information to support the disabled status.

4. The bank will submit to LEDC the complete analysis, proposed structure, and commitment letter at least two weeks prior to the next scheduled Screening Committee meeting for consideration at the next scheduled board meeting following the Screening Committee meeting. The LEDC staff may do analysis, independent of bank analysis.

5. The bank will submit to LEDC the same pertinent data that it did to the bank's loan committee, whatever pertinent data the bank can legally supply.

6. LEDC staff will review the application and analysis, then make recommendations. The staff will work with the bank on terms of the loan and LEDC loan stipulations.

7. The Screening Committee will review only the completed applications submitted by staff and will make recommendations to the board.

8. The applicant(s) or their designated representative, and the loan officer or a representative of the bank are encouraged to attend the Screening Meeting.

9. The Board of Directors will review all recommendations and will approve or reject the proposal.

10. The applicant will be notified within five working days by mail of the outcome of the application.

11. A LEDC commitment letter will be mailed to the bank within five working days of approval by the Board.

AUTHORITY NOTE: R.S. 51:2312

HISTORICAL NOTE: Promulgated by the Department Economic Development, Economic Development Corporation, LR 15:446 (June 1989), amended LR 23:

§107. Eligibility

A. Small business concerns domiciled in Louisiana whose owner(s) or principal stockholder(s) shall be a resident of Louisiana .

B. Certified economically disadvantaged businesses.

C. Disabled person's business enterprises.

D. Funding requests for all but the following may be considered:

1. restaurants, except for regional or national franchises;
2. bars;
3. any project established for the principal purpose of dispensing alcoholic beverages;
4. any establishment which has gaming or gambling as its principal business;
5. any establishment which has consumer or commercial financing as its business;
6. funding for the acquisition, renovation, or alteration of a building or property for the principal purpose of real estate speculation;
7. funding for the principal purpose of refinancing existing debt;
8. funding for the purpose of buying out any stockholder or equity holder by another stockholder or equity holder in a business;
9. funding for the purpose of establishing a park, theme park, amusement park, or camping facility.

AUTHORITY NOTE: R.S. 51:2312

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:447 (June 1989), amended LR 23:

§109. General Loan Provisions

A. The Louisiana Economic Development Corporation will be guided by the following general principles in making loans:

1. The Corporation shall not knowingly approve any loan guarantee, loan participation or loan if the applicant has presently pending or outstanding any claim or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness, including state or federal taxes, or bankruptcy proceeding; nor shall the Corporation approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

2. The terms or conditions imposed and made part of any loan or loan guaranty authorized by vote of the Corporation Board shall not be amended or altered by any member of the Board or employee of the Department of Economic Development except by subsequent vote of approval by the Board at the next meeting of the Board in open session with full explanation for such action.

3. The Corporation shall not subordinate its position.

B. Interest Rates

1. On all loan guarantees, the interest rate is to be negotiated between the borrower and the bank but may not exceed two and one half percent above New York prime as published in the *Wall Street Journal* at either a fixed or variable rate.

2. On all participation loans, the rate shall be determined by utilizing the rate for a U.S. Government Treasury security for the time period that coincides with the term of the participation and adding one percent.

3. The bank may apply for a linked deposit under the Small Business Linked Deposit Program on the term portion of either a guaranteed loan or a participated loan.

C. Collateral

1. Collateral-to-loan ratio will be no less than one-to-one.

2. Collateral position may be negotiated, but will be no less than a sole second position.

3. Collateral value determination:

a. the appraiser must be certified by recognized organization in area of collateral;

b. the appraisal cannot be over 90 days old.

4. Acceptable collateral may include, but not be limited to, the following:

a. fixed assets - business real estate, buildings, fixtures;

b. equipment, machinery, inventory;

c. personal guarantees are open for negotiation; if used, there must be signed and dated Personal Financial Statements;

d. accounts receivable with supporting aging schedule. Not to exceed 90 percent of receivable value (used with guarantee only).

5. Unacceptable collateral may include, but not be limited to the following:

a. stock in applicant company and/or related companies;

b. personal items;

c. intangibles.

D. Equity:

1. will be no less than 20 percent of the loan amount for a start-up operation or acquisition and no less than 15 percent for an expansion.

2. is defined to be:

a. cash;

b. paid-in capital;

c. paid-in surplus and retained earnings;

d. partnership capital and retained earnings.

3. No research, development expense nor intangibles of any kind will be considered equity.

E. Amount

1. For small businesses, the Corporation's guarantee shall be:

a. no greater than 75 percent of a loan up to \$650,000; or

b. no greater than 70 percent of a loan up to \$1,100,000; or

c. no greater than 65 percent of a loan up to \$1,500,000;

d. if the loan request exceeds \$1,500,000 the guaranty shall not exceed \$1,000,000.

2. For certified economically disadvantaged businesses, or disabled person's business enterprises, the Corporation's guaranty shall be:

a. no greater than 90 percent of a loan up to \$560,000; or

b. no greater than 85 percent of a loan up to \$875,000; or

c. no greater than 75 percent of a loan up to \$1,300,000;

d. if the loan request exceeds \$1,300,000, the guaranty shall not exceed \$1,000,000.

3. For small businesses, the Corporation's participation shall be no greater than 40 percent, but in no case shall it exceed \$1,000,000.

4. For certified economically disadvantaged businesses, or disabled person's business enterprises, the Corporation's participation shall be no greater than 50 percent, but in no case shall it exceed \$1,000,000.

F. Terms. Terms may be negotiated with the bank, but in no case shall the terms exceed 20 years.

G. Fees

1. LEDC will charge a minimum guaranty fee of .5 percent of the guaranty amount up to a maximum amount of two percent of the guaranty amount.

2. LEDC will charge a \$100 application fee.

H. Use of Funds

1. Purchase of fixed assets, including buildings that will be occupied by the applicant to the extent of at least 51 percent.

2. Purchase of equipment, machinery, or inventory.

3. Line of credit for accounts receivable or inventory.

4. Debt restructure may be considered by LEDC but will not be considered when the debt:

a. exceeds 25 percent of total loan; and/or

b. pays off a creditor or creditors who are inadequately secured; and/or

c. provides funds to payoff debt to principals of the business; and/or

d. provides funds to payoff family members.

5. Funds may not be used to buy out stockholders or equity holders of any kind, by any other stockholder or equity holder.

6. Funds may not be used to purchase any speculative investment or real estate development.

AUTHORITY NOTE: R.S. 51:2312

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:448 (June 1989), amended LR 23:

§111. General Agreement Provisions

A. Guaranty Agreement

1. The bank is responsible for proper administration and monitoring of loan and proper liquidation of collateral in case of default.

2. The loan shall not be sold, assigned, participated out, or otherwise transferred without prior written consent of the LEDC Board.

3. If liquidation through foreclosure occurs, the bank will sell collateral and handle the legal proceedings.

4. There will be a reduction of the guaratee:

a. in proportion to the principal reduction of the amortized portion of the loan;

b. if no principal reduction has occurred in any annual period of the loan, a reduction in the guaranty amount will be made proportional to the remaining guaranty life.

5. The guaranty will cover the unpaid principal amount owed only.

6. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined in the guaranty agreement. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation as stated in the guaranty agreement.

B. Participation Agreement

1. The bank is responsible for administration and monitoring of the loan.

2. The lead bank will hold no less participation in the loan than that equal to LEDC's, but not to exceed its legal lending limit.

3. The lead bank may sell other participation with LEDC's consent.

4. Should liquidation through foreclosure occur, the bank will sell the collateral and handle the legal proceedings.

5. The bank is able to set its rate according to risk, and may blend its rate with the LEDC rate to yield a lower overall rate to a project.

6. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined. Notification of delinquency will be made to the Corporation in writing and verbally in a time satisfactory to the bank and the Corporation.

C. Borrower Agreement

1. At the discretion of LEDC, the borrower will agree to strengthen management skills by participation in a form of continuing education acceptable to LEDC.

2. The borrower shall provide initial proof as well as an annual report of job creation, including the number of jobs, job titles and salaries.

AUTHORITY NOTE: R.S. 51:2312

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:448 (June 1989), amended LR 23:

§113. Confidentiality

Confidential information in the files of the Corporation and its accounts acquired in the course of duty is to be used solely for the Corporation. The Corporation is not obliged to give credit rating or confidential information regarding applicant. (Also see Attorney General Opinion Number 82-860.)

AUTHORITY NOTE: R.S. 51:2312

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:449 (June 1989), amended LR 23:

§115. Conflict of Interest

No member of the Corporation, employee thereof, or employee of the Department of Economic Development, members of their immediate families shall either directly or indirectly be a party to or be in any manner interested in any

contract or agreement with the Corporation for any matter, cause, or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such corporation. If any contract or agreement shall be made in violation of the provisions of this Section, the same shall be null and void and no action shall be maintained thereon against the Corporation.

AUTHORITY NOTE: R.S. 51:2312

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:449 (June 1989), amended LR 23:

§117. Conditions for Disbursement of Loan Proceeds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/MandWBDP, amended LR 15: (June 1989), repealed LR 23:

§119. Compliance Requirements for all Programs Loans

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/MandWBDP, amended LR 15:(June 1989), repealed LR 23:

§121. Bank Responsibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/MandWBDP, amended LR 15: (June 1989), repealed LR 23:

APPENDIX A

The Application for financial assistance should consist of a completed LEDC Application Form and a comprehensive Business Plan/Loan Proposal which contains but is not limited to the following guidelines:

A. A Cover Letter which contains:

1. dollar amount requested;
2. terms and timing of loan request;
3. type and price of collateral;
4. name, address, and phone number of contacted bank.

B. Executive Summary:

1. business description
 - a. name;
 - b. location and plant description;
 - c. product or service;
 - d. market and competition;
 - e. management expertise;
2. business goals;
3. summary of financial needs and application of funds (sources and uses);
4. earnings projections and potential return to investors.

C. Market analysis:

1. description of total market;
2. industry trends;
3. target market;
4. competition;

D. Products or services:

1. description of product line;
2. proprietary position: patents, copyrights and legal and technical considerations;
3. comparison to competitors' products.

E. Manufacturing process (if applicable):

1. materials;
2. sources of supply;
3. production methods.

F. Marketing strategy:

1. overall strategy;
2. pricing policy;
3. sales terms;
4. method of selling, distributing and servicing products.

G. Management plan:

1. form of business organization;
2. board of directors composition;
3. officers: organization chart and responsibilities;
4. list of stockholders with more than 15 percent ownership;
5. resumes of key personnel;
6. staffing plan/number of employees;
7. facilities plan/planned capital improvements;
8. operating plan/schedule of upcoming work for next one to two years;
9. list of work backlog, if any.

H. Financial data - See Note 1:

1. financial history (five years to present, if applicable);
2. three-year financial projections (first year by quarters remaining years annually);
 - a. profit and loss statements;
 - b. balance sheets;
 - c. cash flow chart;
 - d. capital expenditure estimates;
3. explanation of projections;
4. key business ratios;
5. explanation of use and effect of new funds;
6. potential return to investors compared to competitors and industry in general;
7. current signed personal financial statements of owners.

Note 1: All financial statements must meet Generally Accepted Accounting Principals (GAAP).

Applicants that have already assembled an SBA 7A loan package may substitute it for the above outlined Business Plan.

In both cases, the bank will be asked to share with LEDC any additional information deemed necessary by the bank for them to make a credit decision.

AUTHORITY NOTE: R.S. 51:2341-51:2344 as amended in Acts 1992, Number 1092.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, amended LR 23:

Brett Crawford
Executive Director

9609#047

DECLARATION OF EMERGENCY

Department of Economic Development Economic Development Corporation

Workforce Development and Training Program—Workforce Development (LAC 19:VII.Chapter 81)

The Department of Economic Development, Economic Development Corporation, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to promulgate emergency rules of the Louisiana Workforce Development and Training Program effective immediately. These rules will prescribe in accordance with LAC 19:VII.Chapter 81. This emergency rule shall remain in effect for a period of 120 days or until a final rule is promulgated, whichever occurs first.

The Economic Development Corporation is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), in order to publish these rules because of a recognized immediate need to assist small- and medium-sized businesses with customized workforce training programs in order to create and retain jobs statewide.

Without these emergency rules, the public welfare is likely to be harmed as a result of likely disruptions in the state's workforce due to an absence of training assistance for continued employment and job retention. Such disruption would likely result in diminished job creation and increased risk of higher unemployment.

The proposed emergency rules are intended to mitigate the disruptions described above.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 7. Workforce Development and Training Program

Chapter 81. Workforce Development

§8101. Purpose

The purpose of the program is to develop and provide customized workforce training programs to existing and prospective Louisiana businesses as a means of:

1. improving the competitiveness and productivity of Louisiana's workforce and business community;
2. upgrading employee skills for new technologies or production processes; and
3. assisting Louisiana businesses in promoting employment stability.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:

§8103. Definitions

Applicant—the entity requesting training assistance from LEDC under this program.

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

Awardee—an applicant [and/or company(ies)] receiving a training award under this program.

Contract—a legally enforceable agreement between LEDC, the applicant and a monitoring entity governing the terms and conditions of the training award.

Contractee—the applicant and monitoring entity that are party to a training award contract with LEDC under this program.

Labor Demand Occupation—an occupation for which there is, or is likely to be, greater demand than supply of adequately trained workers.

LEDC—the Louisiana Economic Development Corporation.

Monitoring Entity—a public or not-for-profit entity contracted to monitor the compliance of an awardee with the terms and conditions of a training award contract, and to reimburse the awardee for eligible training costs.

Program—the Workforce Development and Training Program.

Subprogram—the different components of the Workforce Development and Training Program, including, but not limited to, Pre-Employment Training, On-The-Job Training, Workplace-Based Retraining and Quality Standards Training.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:

§8105. General Principles

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

1. training awards are not to be construed as an entitlement for firms locating or located in Louisiana;
2. awards must reasonably be expected to be a deciding factor in firms' location and/or investment decisions;
3. the retention and strengthening of existing businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state;
4. award amounts will not exceed the anticipated economic benefits to the state;
5. appropriate cost sharing between project beneficiaries will be required;
6. awards will be coordinated with the existing plans and programs of other government agencies whenever appropriate; and
7. a train-the-trainer approach will be adopted whenever appropriate in order to strengthen the institutional capacity of public and private sector training providers.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:

§8107. Subprogram Descriptions

A. Pre-Employment Training. This subprogram provides training assistance for companies seeking an applicant pool of prospective employees who possess sufficient skills to perform the jobs to be created by the companies. Prospective employees are identified and recruited for training with the knowledge that the company will hire a subset of the trainees.

B. On-The-Job Training. This subprogram provides training assistance for companies seeking to continue the process of developing the skills of employees hired under the

Pre-Employment Training subprogram. The skills to be developed must be the same skills for which training was provided under the Pre-Employment Training subprogram.

C. **Workplace-Based Retraining.** This subprogram provides training assistance for companies seeking to upgrade the skills of existing employees in response to technological advances or improved production processes.

D. **Quality Standards Training.** This subprogram provides training assistance for companies seeking to improve the quality of a company's products and/or services and to ensure compliance with accepted international and industrial quality standards (e.g., ISO standards).

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:

§8109. Eligibility

A. An eligible applicant must be one of the following:

1. an individual employer that seeks customized training services to create, upgrade, or retain jobs in a:
 - a. labor demand occupation;
 - b. non-labor demand occupation to prevent job loss;
2. an employer, labor organization, or community-based organization that seeks customized training services to provide training for a labor demand occupation in a particular industry;
3. a consortium made up of one or more educational institutions and individual employers, labor, or community-based organizations that seek customized training services to provide training in a labor demand occupation;
4. An individual employer that seeks customized training for employees at a facility which is being newly developed or is being relocated from another state into Louisiana.

B. Employees to be trained must be employed in Louisiana.

C. An applicant shall be considered ineligible if it has pending or outstanding claims or liabilities relating to failure or inability to pay promissory notes or other evidence of indebtedness including state or federal taxes, or bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:

§8111. Criteria

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

1. Preference will be given to applicants in industries identified by the state as target industries, and to applicants located in areas of the state with high unemployment levels.
2. Employer(s) must be in full compliance with Louisiana unemployment insurance laws.
3. Not less than 25 percent of all funds available during a fiscal year shall be available for employers with 150 or fewer Louisiana-based employees.

4. No single employer shall receive more than 10 percent of the total funds available to the program during a fiscal year.

5. Applicants must provide evidence satisfactory to LEDC of their long-range commitment to employee training as a means of enhancing their future competitiveness.

B. **Pre-Employment Training**

1. Applicants must create at least 10 net new jobs in the state and must assign an employee to supervise the training.

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

C. **On-The-Job Training**

1. On-The-Job Training awards will be available only for employees who have completed the pre-employment training program and have been hired by the applicant.

D. **Workplace-Based Retraining.** Applicants must request training for at least five employees.

E. **Quality Standards Training.** Applicants must request training for at least five employees.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:

§8113. Application Procedure

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

1. an overview of the company, its history, and the business climate in which it operates;
2. the company's overall training plan, including a summary of the types and amounts of training to be provided and a description of how the company determined its need for training;
3. the specific training programs for which LEDC assistance is requested, including descriptions of the methods, providers and costs of the proposed training; and
4. quantifiable objectives for the training related to the overall performance of the company, and plans to measure the effectiveness of the training according to those objectives.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:

§8115. Submission and Review Procedure

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

1. determine whether the employer's specific needs are best met by training;
2. identify the availability of existing training programs which could be adapted to meet the employer's needs;
3. identify the resources the business can provide to support the training, including trainers, facilities, materials and equipment;
4. identify or develop appropriate curricula; and

5. determine the most cost effective approach to meet the employer's training needs.

B. A cost-benefit analysis tailored to applicants' specific industries shall be conducted by LEDC to determine the net benefit to the state of the proposed training award. Such analysis will include, but not be limited to, evaluations of:

1. the importance of the proposed training to the state and local economies;

2. the importance of the proposed training to the recruitment/retention of businesses and/or jobs in the state (factors to be considered will include the degree of technological advancement of the skills to be taught, the transferability of those skills across companies and industries, and the wage levels of the jobs to be created and/or retained); and

3. the probability that the applicant would not undertake the proposed training without state financial assistance.

C. Upon determination that a proposal meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state according to the cost-benefit analysis, LEDC staff will then make a recommendation to LEDC's board of directors of an appropriate amount and the conditions of the training award at the next scheduled meeting of the board.

D. The final authority to approve or reject a training award will reside with LEDC's board of directors.

E. Applicants will be notified in writing of the outcome of their application within five working days following a decision by LEDC's board of directors.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:

§8117. General Award Provisions

A. Award Agreement

1. A contract will be executed between LEDC, the applicant (and/or company(ies) receiving training) and an appropriate monitoring entity from the same geographic area as the applicant. The contract will specify the performance objectives expected of the company(ies) and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for job training and job creation.

2. The monitoring entity will monitor the progress of the training and reimburse the applicant from invoices submitted by the applicant on a form approved by LEDC.

3. The cost associated with this contract incurred by the monitoring entity will be considered part of the total training award, but will not exceed five percent of the award amount.

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

B. Use of Funds

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

2. Eligible training costs may include, inter alia, the following:

a. Instruction Costs: wages for company trainers and

training coordinators; Louisiana public and/or private school tuition; contracts for vendor trainers; training seminars;

b. Travel Costs (limited to 30 percent of the total training award): travel for trainers and training coordinators (company and other); travel for trainees;

c. Materials and Supplies Costs: training texts and manuals; audio/visual materials; skills assessment (documents or services to determine training needs); raw materials (for manufacturing and On-The-Job training); and

d. Other Costs: facility rental; wages for On-The-Job trainees (limited to 25 percent of a trainee's wage, excluding benefits); and fees or service costs incurred by the monitoring entity associated with the contract to monitor the training and to disburse award funds, as limited by §8117.A.3) above.

3. Training costs ineligible for reimbursement include:

a. trainee fringe benefits;

b. tangible property (e.g., calculators, furniture, classroom fixtures, equipment);

c. out-of-state, publicly supported schools;

d. employee handbooks; and

e. scrap produced during training.

4. Training activities eligible for funding consist of:

a. Basic Skills: literacy, numeracy, problem solving, team participation, etc.;

b. Transferable Skills: skills which will enhance an employee's general knowledge, employability and flexibility in the workplace (e.g., welding, computer skills, blueprint reading, etc.);

c. Company-Specific Skills: skills which are unique to a company's workplace, equipment and/or capital investment;

d. Quality Standards Skills: skills which are intended to increase the quality of a company's products and/or services and ensure compliance with accepted international and industrial quality standards (e.g., ISO standards); and

e. Pedagogical Skills: skills which pertain to instructional methods and techniques to be used by trainers (these are most relevant to train-the-trainer activities).

C. Amount of Award

1. Pre-Employment and On-The-Job Training. The training award amount shall cover up to 100 percent of the eligible training costs, not to exceed \$500,000.

2. Workplace-Based Retraining and Quality Standards Training. The training award amount shall cover up to 50 percent of the eligible training costs, not to exceed \$500,000.

D. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of approved invoices to LEDC. Funds will not be available for reimbursement until a training agreement between the applicant (and/or company(ies) receiving the training) and an approved training provider has been executed.

2. Fifty percent of the training award will be available for reimbursement of eligible costs until the awardee(s) has achieved 75 percent of its contracted performance objectives.

3. Once the awardee(s) has achieved 75 percent of its contracted performance objectives, an additional 25 percent of the grant award will be made available for reimbursement. After the company has achieved 100 percent of its contracted

performance objectives, the remaining 25 percent of the grant award will be made available for reimbursement.

E. Compliance Requirements

1. Contractees shall be required to complete quarterly reports describing the progress towards the performance objectives specified in their contract with LEDC.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:

Brett Crawford
Executive Director

9609#046

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of the Secretary

Land Disposal Restriction Variances (LAC 33:V.2271)(HW051)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Environmental Quality (department) to use emergency procedures to establish rules, and R.S. 30:2011 and R.S. 30:2193, which allow the department to provide for variances and exemptions from hazardous waste land disposal restrictions by rule, the secretary of the department hereby finds that imminent peril to the public welfare exists and accordingly adopts the following emergency rule effective August 21, 1996, for 120 days, or until promulgation of the final rule, whichever occurs first.

This Declaration of Emergency is necessary because the ability of certain underground injection well operators to continue injection of wastewater, during the time period necessary for the department to process their state petitions for exemption under LAC 33:V.2242, (now LAC 33:V.2271), has been put into question by the court's decisions in *In the*

Matter of Rubicon, Inc., Number 95-CA-0108 (1st Cir. 2/14/96), rehearing denied per curiam (3/29/96), and in *In The Matter of Cytec, Inc.*, Number 94-CA- 1693 (1st Cir. 2/23/96). These decisions vacated and remanded the department's decisions to grant land disposal exemptions on strictly procedural grounds, not on the merits of the department's actions. There are four other exemption decisions granted by the department pending at the First Circuit.

Prior to the department's decisions, these companies operated their wells under an emergency variance granted pursuant to LAC 33:V.2242.W under a Judgment and Consent Decree entered in *Louisiana Chemical Association v. Department of Environmental Quality*, 19th Judicial District Court, Parish of East Baton Rouge, State of Louisiana, Suit Number 345,262, which recognized the need for interim relief during the period while the department processed state exemption petitions. This rule will confirm the legal authority of the affected companies to operate under this emergency variance during the time period necessary for the department to reissue its decisions pursuant to the court's directives.

This action is necessary because of the inability of the department to complete review, draft written reasons and reissue its decision as directed by the court in each case by the time the respective court of appeal's decisions become final. Affected companies are allowed to continue operation of their injection wells until final action on remand is taken by the department and any subsequent appeal process has been completed. This will preserve the status quo pending this action by the department and is consistent with the original intent of the emergency variance provisions of the Consent Judgment.

Without the ability to continue injection during the time period necessary for the department to reissue its decisions, certain facilities would be forced to cease operations entirely, or to close major units. All affected facilities would incur substantial disruptions to their business operations, adversely affecting the provisions of products or services. Closures would cause severe adverse effects on the public welfare of this state, including the loss of:

1. the employment of approximately 2,600 employees and contractors at these facilities; and
2. at least \$685 million per year in payroll expenses, state and local taxes, purchase of goods and services, and environmental regulatory fees, which would otherwise have been paid to the State of Louisiana or its citizens.

All of the companies affected have received land disposal restriction exemptions from the United States Environmental Protection Agency as authorized by the Hazardous and Solid Waste Amendments of 1984 and have received authorization to operate their injection wells from the Louisiana Department of Natural Resources, Office of Conservation, pursuant to the Underground Injection Control (UIC) provisions of the federal Safe Drinking Water Act. They will be required to comply with all federal exemption conditions and State UIC permit conditions as a condition of the state emergency variance. Adopted this 21st day of August, 1996.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality - Hazardous Waste

Chapter 22. Prohibitions on Land Disposal

§2271. Exemptions To Allow Land Disposal of a Prohibited Waste By Deep Well Injections

[See Prior Text in A-V.5.j]

W. Emergency Variance

1. During the petition review process, the applicant is required to comply with all prohibitions on land disposal under this Chapter, unless a petition for an exemption has been approved by the EPA, and the administrative authority grants an emergency variance. If EPA has approved the exemption, the land disposal of the waste may continue for up to one year under an emergency variance issued by the administrative authority until the administrative authority makes a decision on the petition for exemption. The administrative authority may extend an emergency variance beyond one year; however, such approval is solely based on the agency's inability to review the petition during the first one-year variance. The administrative authority shall either grant or deny the petition within the extended emergency variance period, no later than June 1, 1995, for petitions submitted prior to June 1, 1992. After the administrative authority issues a decision on the exemption, the waste may be land disposed only in accordance with the provision of the exemption.

2. If the exemption decision is vacated and/or remanded by a court on judicial review, the emergency variance shall be automatically reinstated and shall remain in effect until final action on the remand is taken by the administrative authority and any subsequent appeal process has been completed.

[See Prior Text in X-Z]

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 22:22 (January 1996), amended by the Department of Environmental Quality, Office of the Secretary LR 22:

J. Dale Givens
Secretary

9609#024

DECLARATION OF EMERGENCY

**Office of the Governor
Office of Rural Development**

Projects and Funding (LAC 4:VII.1901-1903)

The Office of the Governor, Office of Rural Development has exercised the emergency rule provision of the Administrative Procedure Act, R.S. 49:953(B), to adopt the following Emergency Rule in the projects and funding of this office under the authority of the Louisiana Rural Development

Law, R.S.3:311 et seq., LAC 4:VII. 1901-1903. This Emergency Rule, effective September 10, 1996, shall remain in effect for a period of 120 days or until a final rule is promulgated, whichever occurs first.

Emergency rulemaking is necessary in order to permit the office to continue all its legal operations, including funding emergency requests for the health, safety and welfare of citizens in rural areas and to allow time for public hearings and legislative approval of the administrative procedures being initiated. Notice is given that rule making procedures will be initiated to adopt LAC 4:VII.1901-1903.

Title 4. Administration

Part VII. Governor's Office

Chapter 19. Rural Development

§1901. Projects or Activities

A. The Office of Rural Development (ORD) provides financial assistance to local units of government throughout the state mitigating the effects of natural and economic emergencies and funding units of local government projects essential to community well-being.

B. Municipalities with populations of less than 25,000 and parishes with populations of less than 100,000 inhabitants will be considered rural for the purposes of this program.

C. The ORD applies the following guidelines to any project or activity funded:

1. All projects or activities funded must be related to rural development revitalization of a rural area, as defined in R.S.3:313.

2. All funds shall be used to mitigate the rapid deterioration or assist the improvement of rural health, education, agribusiness, transportation, public facilities, tourism, infrastructure, or other defined purposes essential to the socioeconomic well-being and quality of life of Louisiana's rural areas.

3. Projects or activities should further enhance community services and broaden rural employment opportunities whenever possible.

4. Projects or activities should further the provisions of the Rural Development Law, R.S.3:311-323.

E. The director of the ORD shall develop and application procedure satisfying the purposes, intentions, and the implications of regulatory provisions contained in the Rural Development Law.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:311 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Rural Development, LR 22:

§1903. Application Process

A. Rural development grant application packets are available from the Office of Rural Development to all who request them. All requests for information may be submitted via mail to the Office of Rural Development, Post Office Box 94004, Baton Rouge, LA 70804-9004.

B. Municipalities, parish governments, school boards, other units of government, and special districts are eligible to apply for rural development funds. All applicants must be authorized by law to perform governmental functions and be provided governmental body support, and must be subject to state audit.

C. Current population figures are used to determine the eligibility for funding of municipalities. Those requirements are:

1. village	0 - 1,000	\$ 15,000;
2. town	1,001 - 5,000	\$ 25,000;
3. city	5,001 - 25,000	\$ 50,000;
4. parish	population < 100,000	\$100,000.

D. Funding may exceed above amounts listed for economic development projects if permanent jobs are created. Based upon the size of the parish population and the number of applications received within that parish, funding may exceed the recommended amount of \$100,000 per parish.

E. Funds from this program cannot be used to pay consulting fees charged to a unit of government for the preparation of the application or used for previously created debt.

F. Grant recipients are required to maintain an audit trail verifying that all funds received under this program were used to fulfill the above criteria for funding.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:311 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Rural Development, LR 22:

A copy of the complete rural development grant application packet is available for review by the public. Copies may be obtained by contacting the ORD at Governor's Office of Rural Development, Box 94004, Baton Rouge, LA 70804 (504)342-1618.

Larry Kinlaw
Executive Director

9609#064

DECLARATION OF EMERGENCY

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

Community Care Program—Physician Management Fee

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 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides reimbursement to primary care physicians who are enrolled as physician managers in the Community Care Waiver Program to insure that the recipient under their care receive the appropriate hospital and specialty care as well as primary care. These physicians were being reimbursed a \$5 management fee per month per Medicaid recipient enrolled in the Community Care Program.

The bureau adopted an Emergency Rule to reduce the physician management fee to \$2 per month per enrolled Medicaid recipient effective July 1, 1996 (*Louisiana Register*, Volume 22, Number 7). The bureau has now determined it is necessary to amend the July 1, 1996 Emergency Rule to increase the physician management fee. The following Emergency Rule has been adopted to increase the physician management fee under the Community Care Waiver Program from \$2 to \$3 per month per enrolled Medicaid recipient. This action is necessary to assure continued access to primary medical care and physician case management services for recipients who reside in designated Community Care Program parishes. Adoption of this Emergency Rule will reduce the savings cited in the previous Emergency Rule to approximately \$1,043,112 for state fiscal year 1996-1997.

Emergency Rule

Effective for dates of service September 5, 1996 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the July 1, 1996 Emergency Rule to increase the physician management fee in the Community Care Waiver Program to \$3 per enrolled recipient per month.

Interested persons may submit written comments to the following address: Thomas D. Collins, 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 for review by interested parties at parish Medicaid offices.

Bobby P. Jindal
Secretary

9609#016

DECLARATION OF EMERGENCY

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

Hospital Program—Outpatient Rehabilitation 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. 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 Department of Health and Hospitals, Bureau of Health Services Financing previously reimbursed hospitals for outpatient speech, occupational and physical therapies through a cost settlement process. The bureau adopted an Emergency Rule effective August 1, 1996 revising this reimbursement methodology by establishing a flat fee for services in accordance with the reimbursement methodology for rehabilitation clinics. In accordance with an edict from the Legislative Health and Welfare Committee, the bureau has now determined it is necessary to adopt the following Emergency Rule repealing the August 1, 1996 Emergency Rule which revised the reimbursement methodology for outpatient hospital rehabilitation services.

Emergency Rule

Effective for dates of service September 5, 1996 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the August 1, 1996 Emergency Rule on revising the reimbursement methodology for outpatient hospital rehabilitation services to a flat fee which was published in the August 20, 1996 issue of the *Louisiana Register*, Volume 22, Number 8.

Interested persons may submit written comments to: Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule.

Bobby P. Jindal
Secretary

9609#018

DECLARATION OF EMERGENCY

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

Hospital Reimbursement Methodology

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 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the

Secretary, Bureau of Health Services Financing currently provides reimbursement for certain specialty hospital services including long-term acute hospitals under specialty hospital peer groups as published in the *Louisiana Register*, Volume 20, Number 6, of June 20, 1994. The bureau has now determined it is necessary to reimburse long-term acute hospitals for psychiatric treatment at the prospective per diem rate established for psychiatric treatment facilities. This action is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this Emergency Rule will save approximately \$5,250,486 for state fiscal year 1996-1997.

Emergency Rule

Effective for dates of services on or after October 13, 1996, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will prospectively reimburse long-term acute hospitals for psychiatric treatment at the prospective per diem rate established for psychiatric treatment facilities.

Interested persons may submit written comments to: Thomas D. Collins, 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 for review by interested parties at parish Medicaid offices.

Bobby P. Jindal
Secretary

9609#041

DECLARATION OF EMERGENCY

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

**Optional Targeted Case Management
Services—Infants and Toddlers**

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 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides Optional Targeted Case Management Services to Title XIX eligible infants and

toddlers with special needs who are categorized as developmentally delayed under the ChildNet Program. The criteria for ChildNet includes those infants and toddlers ages birth through two years inclusive (0-36 months) who have established medical conditions, other biological factors, or are developmentally delayed. These criteria are further defined in Chapter 34 of the Code of Federal Regulations (CFR), Section 303.300.

The bureau provides case management services to assist eligible individuals in gaining access to needed medical, social and educational services. Currently Medicaid eligible infants and toddlers may receive case management services regardless of the number of other Medicaid services received by the Medicaid recipient. The bureau has now determined it is necessary to limit coverage for Optional Targeted Case Management services to those infants and toddlers who are either participants in the MR/DD waiver or who receive two or more of the following Medicaid services: assistive technology services and devices; audiology services; health services; medical services provided by a licensed physician to determine a child's developmental status and the need for early intervention services; home health services; occupational therapy services; physical therapy services; psychological services; speech and language pathology services; and vision services. Infant and toddler case management recipients who receive less than two of the above referenced Medicaid services shall no longer be eligible to receive case management services. This action does not affect participants of the MR/DD waiver or the recipient's eligibility for Medicaid benefits. This action is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this Emergency Rule will save approximately \$733,695 for state fiscal year 1996-1997.

Emergency Rule

Effective September 24, 1996, the Department of Health and Hospitals, Bureau of Health Services Financing limits coverage for Optional Targeted Case Management services to those infants and toddlers who are either participants in the MR/DD waiver or who receive two or more of the following Medicaid services: assistive technology services and devices; audiology services; health services; medical services provided by a licensed physician to determine a child's developmental status and the need for early intervention services; home health services; occupational therapy services; physical therapy services; psychological services; speech and language pathology services; and vision services. Infant and toddler case management recipients who receive less than two of the above referenced Medicaid services shall no longer be eligible to receive case management services. This action does not affect participants of the MR/DD waiver or the recipient's eligibility for Medicaid benefits.

Interested persons may submit written comments to: Thomas D. Collins, 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 for review by interested parties at parish Medicaid offices.

Bobby P. Jindal
Secretary

9609#042

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. 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 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. The bureau adopted an Emergency Rule effective July 10, 1996 to reduce the reimbursement by 10 percent to these clinics for rehabilitation services. In accordance with an edict from the Legislative Health and Welfare Committee, the bureau has now determined that it is necessary to adopt the following Emergency Rule repealing the July 10, 1996 Emergency Rule which reduced the reimbursement to rehabilitation clinics by 10 percent.

Emergency Rule

Effective for dates of service of September 5, 1996 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the July 10, 1996 Emergency Rule reducing the reimbursement to rehabilitation clinics by 10 percent which was published in the July 20, 1996 issue of the *Louisiana Register*, Volume 22, Number 7.

Interested persons may submit written comments to: Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule.

Bobby P. Jindal
Secretary

9609#019

DECLARATION OF EMERGENCY

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

Vaccines for Children

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 the Social Security Act. This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. It shall remain in effect for the maximum period allowed by the Act or until adoption of the rule, whichever occurs first.

The Omnibus Budget Reconciliation Act of 1993, Public Law 103-66 Section 13631 created the Pediatric Vaccine Distribution Program (known as the Vaccines for Children Program) which became effective October 1, 1994. OBRA 1993 added a new Section 1928 to the Social Security Act which requires that states establish a program for the purchase and distribution of pediatric vaccines to providers qualified under and registered with the program for the purpose of immunizing children eligible under the act. One of the federally mandated groups of children who are entitled to receive immunizations without charge for the cost of vaccines to their parents/guardians are Medicaid eligible children. Therefore, the Medicaid Program is required to reimburse qualified and registered providers for the administration of the immunizations to Medicaid eligible children. The U.S. Health and Human Services' Center for Disease Control and the Office of Public Health within the Department of Health and Hospitals are responsible for the distribution of these vaccines to private providers who are registered and qualified under the federal requirements to receive and administer these vaccines. At this time the Office of Public Health is to distribute these vaccines to its public health units, federally qualified health centers as well as to private providers.

Initial adoption of this Emergency Rule on January 20, 1995 (*Louisiana Register*) and subsequent redeclarations in the *Louisiana Register* were necessary to implement this Vaccines for Children Program under the Medicaid Program. The following emergency rule is necessary to provide for the continuation of the program and the implementing regulations and thereby maintain conformity with federal law and avoid possible federal sanctions or penalties. This Emergency Rule shall be in effect until adoption of the rule subsequent to the Notice of Intent published in the June 20, 1996 issue of the *Louisiana Register*, Volume 22, Number 6.

Emergency Rule

Effective September 10, 1996 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing continues to administer the Medicaid Vaccines for Children Program whereby the bureau reimburses qualified and registered providers only for the administration of the pediatric vaccines. This program has been instituted through

a phase-in statewide basis to both public and private providers. Distribution of vaccines includes the health units of the Office of Public Health, Federally Qualified Health Centers and private providers. The following provisions govern the reimbursement of pediatric vaccines under the Medicaid Vaccines for Children Program.

1. A qualified and registered provider must:
 - a. be a licensed health care provider who has authority under Louisiana state law to administer pediatric vaccines;
 - b. be an enrolled Medicaid provider and an enrolled Vaccines for Children Program provider; and
 - c. not have been found by the Health Care Financing Administration or the State of Louisiana to have violated a provider agreement or other applicable requirements.
2. Medicaid reimbursement for the administration cost of the pediatric vaccines is \$9.45 for the first year and this rate may be inflated by the Medical—All Items line of the Consumer Price Index for each of the succeeding two years, and:
 - a. is provided only for Medicaid eligible children; and
 - b. shall be made only for the administration of vaccines in accordance with the immunization schedule adopted by the National Academy of Pediatrics as required by the KIDMED Program under the Medicaid Program.
3. There is no Medicaid reimbursement for the vaccines obtained through the Vaccines for Children Program.
4. The pediatric vaccines included under the Medicaid Vaccines for Children's Program include the following:
 - a. DTaP—Diphtheria, Tetanus and acellular Pertussis;
 - b. DTP—Diphtheria, Tetanus, Pertussis;
 - c. MMR—Measles, Mumps and Rubella;
 - d. Poliovirus;
 - e. Hep B—Hepatitis B;
 - f. HIB—Hemophilus Influenza B;
 - g. DT—Diphtheria and Tetanus;
 - h. DTP—HIB combination vaccine.

Bobby Jindal
Secretary

9609#040

DECLARATION OF EMERGENCY

Department of Labor
Office of Workers' Compensation

Hearing Officer Rules (LAC 40:I.2123)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 23:1291, the director of the Office of Workers' Compensation declares that the following rules and regulations are adopted to be effective August 12, 1996, for a period of 120 days or until the final rule is adopted, whichever occurs first.

The adoption and amendment of these rules is necessary because the filing of class actions in the Workers' Compensation Hearing Districts will unduly burden the workers' compensation system.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Chapter 21. Hearing Rules

Subchapter B. Disputed Claims

§2123. Commencement of Claim; Place of Filing

A. - C. ...

D. No Class Action will be permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1, 1310.4, 1311 and 1314.

HISTORICAL NOTE: Adopted by the Department of Labor, Office of Workers' Compensation Administration, LR 16:297 (April 1990), repromulgated by the Department of Employment and Training, Office of Workers' Compensation Administration LR 17:262 (March 1991), amended by Department of Labor, Office of Workers' Compensation Administration, LR 19:350 (March 1993) LR 22:

Ronald Menville
Assistant Secretary

9609#025

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Gaming Control Board**

Board Hearings (LAC 42); Repeal of Video Draw Poker Hearings and Sanction Procedures (LAC 42:XI.2423); Repeal of Gaming Enforcement Division Procedure for Riverboat License and Permit Hearings (LAC 42:XIII.2167)

In accordance with the provisions of R.S. 49:953(B), the Gaming Control Board hereby determines that adoption of emergency rules relative to standards of conduct and ethical rules, administrative actions initiated by the State Police, administrative hearings, definitions of persons furnishing significant goods and services, key employees, licensees and permittees is necessary and that for the following reasons failure to adopt rules on an emergency basis will result in imminent peril to the public health, safety and welfare.

Act 7 of the First Extraordinary Session of 1996, effective May 1, 1996, created the Gaming Control Board with all regulatory authority, control and jurisdiction, including investigation, licensing and enforcement, and all power incidental or necessary to such regulatory authority, control and jurisdiction over all aspects of gaming activities and operations as authorized pursuant to the provisions of the Riverboat Economic Development and Gaming Control Act, the Economic Development and Gaming Corporation Act, and the Video Draw Poker Devices Control Law.

Further, Act 7 provides that all powers, duties, functions and responsibilities of the Riverboat Gaming Commission, Video Gaming Division and Riverboat Gaming Enforcement Division of State Police, and the Economic Development and Gaming Corporation are transferred to and shall be performed and exercised by the Gaming Control Board, and that the powers, duties, functions and responsibilities and any pending

or unfinished business of those regulatory entities becomes the business of and shall be completed by the Gaming Control Board with the same power and authority as the entity from which the functions are transferred.

The Legislature has determined that development of a controlled gaming industry to promote economic development of the state requires thorough and careful exercise of legislative power to protect the general welfare of the state's people by keeping the state free from criminal and corrupt elements, and that it is the public policy of the state to this end that all persons, locations, practices, associations and activities related to the operation of licensed and qualified gaming establishments and the manufacture, supply, or distribution of gaming devices and equipment shall be strictly regulated.

Numerous licensing actions and enforcement actions are required to be initiated immediately by board and it is necessary that rules be adopted providing for administrative hearings to ensure due process is afforded applicants, licensees and permittees.

Rules relative to hearings promulgated by predecessor gaming regulatory entities must be repealed to eliminate redundant language and potential conflicts.

Act 7 provides that hearings be conducted in conformity with rules adopted by the board, and that such rules provide for certain matters specified in the act.

For the foregoing reasons, the Gaming Control Board has determined adoption of emergency rules is necessary and hereby adopts this emergency rule, Rule 108 and repeals LAC 42:XIII.2167 and LAC 42:XI.2423 effective September 3, 1996, in accordance with R.S. 49:953(B), to be effective for a period of 120 days or until the final rule is promulgated, whichever occurs first.

Title 42

LOUISIANA GAMING

§108. Board Hearings

A. Any person against whom an administrative action is proposed, and any person against whom an enforcement action is taken, may request a hearing by filing a written request with the board. The request shall be filed within 10 days of the date of receipt of the certified mailing or personal service of the notice of proposed action or within 10 days of the date the enforcement action is taken. All hearings requested and any matter the board determines should be heard in a public hearing shall be conducted in accordance with this Section.

B.1. A hearing will be conducted in accordance with procedural and evidentiary rules contained in the Administrative Procedure Act, R.S. 49:950 et seq., and the Gaming Control Law, 1996 Louisiana Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and rules promulgated in accordance therewith.

2. No discovery request shall be made within 20 days of the date scheduled for the hearing.

3. Hearings may be conducted by hearing officers employed by or under contract with the board.

C.1. Hearing requests shall be promptly docketed and scheduled for hearing.

2. The requesting party shall be notified of the time, date and location of the hearing by certified mail or personal service.

D.1. Testimony taken at a hearing shall be under oath.

2. Depositions may be used at hearings as provided in the Administrative Procedure Act, R.S. 49:950 et seq.

E. A report shall be prepared in accordance with the provisions of R.S. 27:25 and submitted to the board within 60 days of the notice of any enforcement action involving suspending or conditioning a license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Gaming Control Board, LR 22:

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2423. Hearings and Sanction Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), repealed by the Gaming Control Board, LR 22:

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming Enforcement Division

Chapter 21. Licenses and Permits

§2167. Procedure for Hearings by the Division

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:705 (July 1995), repealed by the Gaming Control Board, LR 22:

Hillary J. Crain
Chairman

9609#012

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Permit Fees (LAC 55:IX.107 and 113)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to adopt an emergency rule, effective September 1, 1996, for 120 days or until a final rule takes effect through the normal promulgation process, whichever occurs first. Emergency rule action is necessary to meet the requirements as prescribed by the 1996-97 budget.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

§107. Requirements

A.1. - 5.b. ...

6. Must have paid permit fee in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be as described in R.S. 40:1849(A) with a minimum of \$75.

A.6.a. - 13. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 22:

§113. Classes of Permits

A.1.a. - f. ...

g. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be as described in R.S. 40:1849(A) with a minimum of \$75.

A.1.g.i. - 4.c.ii. ...

d. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be as described in R.S. 40:1849(A) with a minimum of \$75.

A.4.d.i. - 6.d. ...

e. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be as described in R.S. 40:1849(A) with a minimum of \$75.

A.6.e.i. - 7.c.ii. ...

d. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be as described in R.S. 40:1849(A) with a minimum of \$75.

A.7.d.i. - 10.b. ...

c. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be as described in R.S. 40:1849(A) with a minimum of \$75.

A.10.c.i. - 11.j. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 3:315 (July

1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 19:904 (July 1993), LR 20:1400 (December 1994), LR 21:704 (July 1995), LR 22:

G. L. "Mike" Manuel, Jr.
Director

9609#011

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Office of Fisheries

King Mackerel Commercial 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 12:01 a.m., September 12, 1996, the commercial fishery for king mackerel in Louisiana waters will close and remain closed until 12:01 a.m., July 1, 1997. Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fishermen. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel. Effective with the closure, no person shall possess king mackerel in excess of a daily bag limit. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing king mackerel taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.4.

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.

James H. Jenkins, Jr.
Secretary

9609#020

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Office of Fisheries

Southern Flounder Commercial Harvest Closure

(Editor's Note: The following Emergency Rule, appearing on pages 694-695 of the August, 1996 Louisiana Register is being republished to correct typographical errors in the effective dates.)

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. 56:325.4 which provides that the secretary of the department must declare a closed season when it is determined that the spawning potential ratio of southern flounder (*Paralichthys lethostigma*) is below 30 percent, and R.S. 56:317, which allows the secretary to close a fishing season or restrict fishing in the closed season in any manner deemed advisable, upon securing evidence that the fish in state waters have been depleted through overfishing or that fishing is detrimental to the 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 12:01 a.m., August 28, 1996, the commercial harvest of southern flounder (*Paralichthys lethostigma*) in Louisiana waters will close and remain closed until 12:01 a.m., May 1, 1997.

Effective with the closure, no vessel possessing any commercial fishing gear including, but not limited to, any pompano strike net, shall have southern flounder (*Paralichthys lethostigma*) aboard the vessel, whether caught within or without the territorial waters of the state.

Effective with the closure, the sale, barter, or exchange of, and the commercial possession of southern flounder (*Paralichthys lethostigma*) shall be prohibited.

Act 1316 of the 1995 Louisiana Regular Legislative Session, the Louisiana Marine Resources Conservation Act of 1995, enacts §325.4 of Title 56, L.R.S, providing that the Wildlife and Fisheries Commission shall make an annual peer reviewed and evaluated report to the Legislature no later than March 1 containing the following information on southern flounder (*Paralichthys lethostigma*):

(a) the spawning potential ratio (SPR);

(b) a biological condition and profile of the species and stock assessment.

The Act also provides that if the SPR is below 30 percent, the department shall close the season within two weeks for the period of at least one year.

The department has reviewed the information on the SPR of southern flounder (*Paralichthys lethostigma*), and has determined that the SPR is probably between 16 percent and 44 percent. The most conservative of these estimates is below

the 30 percent criterion established by the Legislature. The secretary has determined that a limited closure of the commercial harvest of flounder using pompano strike nets would be ineffective and unenforceable. The secretary therefore has determined that it is in the best interest of the state and most appropriate that the commercial season for southern flounder (*Paralichthys lethostigma*) in Louisiana waters be completely closed, and remain closed for one year. In order to simplify temporal changes in regulations for fishermen, the closure is placed as May 1, 1996 until May 1, 1997.

James H. Jenkins, Jr.
Secretary

9609#048

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

1996-97 Fur Harvest Dates

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and R.S. 49:967(D), the Wildlife and Fisheries Commission is using emergency procedures to set the 1996-97 fur harvest season statewide from November 20, 1996 through March 20, 1997. Authority to extend or shorten the adopted season by the Secretary is hereby authorized by the Wildlife and Fisheries Commission.

Glynn Carver
Chairman

9609#052

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

1996-97 Waterfowl Hunting Seasons

In accordance with the emergency provision of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following emergency rule:

The hunting seasons for ducks, coots and geese during the 1996-97 hunting season shall be as follows:

DUCKS AND COOTS

West Zone: November 9 - December 1
December 21 - January 16

East Zone: November 23 - December 5
December 14 - January 19

Catahoula Lake Zone: November 23 - December 5
December 14 - January 19

Daily Bag Limits. The daily bag limit on ducks is 5 and may include no more than 4 mallards (no more than 1 of

which may be a female), 3 mottled ducks, 1 black duck, 2 wood ducks, 1 pintail, 1 canvasback and 2 redhead. Daily bag limit on coots is 15.

Mergansers. The daily bag limit for mergansers is 5, only 1 of which may be a hooded merganser. Merganser limits are in addition to the daily bag limit for ducks.

Possession Limit. The possession limit on ducks, coots and mergansers is twice the daily bag limit.

GEESE: LIGHT GEESE (SNOW AND BLUE)

Statewide Season: November 9 - February 23

Daily bag limit (snow and blue) - 10; Possession limit (snow and blue) - 30

WHITE-FRONTED (SPECKLEBELLIES)

November 9 - December 8

December 21 - January 29

Daily Bag limit (speckle bellies) - 2; Possession limit (speckle bellies) - 4

During the Canada Goose Season (January 21 - January 29) the daily bag limit for Canada and white-fronted geese is 2, of which not more than 1 can be a Canada goose. Possession limit is twice the daily bag limit.

CANADA GOOSE SEASON: CLOSED IN THE

AREA DESCRIBED BELOW

January 21 - January 29

During the Canada Goose Season (January 21 - January 29) the daily bag limit for Canada and white-fronted geese is 2, of which not more than 1 can be a Canada goose. Possession limit is twice the daily bag limit.

The Canada Goose Season will be open statewide except for a portion of southwest Louisiana. The closed area is described as follows: That portion of Cameron and Vermilion parishes from the Texas state line south of Highway 82 to its junction with the Calcasieu Ship Channel, east of the Calcasieu Ship Channel to its junction with the Intracoastal Waterway, south of the Intracoastal Waterway to its junction with Highway 82 at Forked Island, west of Highways 82 and 3147 to the junction of Highway 3147 and Freshwater Bayou. Open waters of Lake Arthur and the Mermentau River from the Highway 14 bridge southward will also be closed to Canada goose hunting.

A special permit shall be required to participate in the Canada Goose Season. A permit is required of everyone, regardless of age, and a non-refundable \$5 administrative fee will be charged. This permit may be obtained from any District Office.

Return of harvest information requested on permit is mandatory. Failure to submit this information to the Department by February 15, 1997 will result in the hunter not being allowed to participate in the Canada Goose Season the following year.

Shooting Hours: One-half hour before sunrise to sunset.

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season

dates, bag limits and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective November 1, 1996 and extend through sunset on March 10, 1997.

James H. Jenkins, Jr.
Secretary

9609#051

Rules

RULE

Department of Civil Service Board of Ethics for Elected Officials

Purchases by Small Municipalities

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Ethics for Elected Officials, at its August 20, 1996 meeting, adopted rules, as required by R.S. 42:1123(22), which affect municipalities having a population of 1,500 or less.

Rule

A mayor or a member of a governing authority (the "elected official") of a municipality with a population of 1,500 or less (according to the most recently published decennial census), or a legal entity in which the elected official has a controlling interest, may enter into transactions under the supervision or jurisdiction of the municipality only if a plan is developed by the municipality in accordance with the rules set out below. The plan must be approved by the Board of Ethics for Elected Officials (the "board") prior to its implementation.

1. The elected official involved must immediately recuse himself or herself from acting in his or her governmental capacity in matters affecting the transaction and file quarterly affidavits concerning that recusal with the clerk of the municipality and the board. The affidavits must set out the name and address of the elected official, the name and population of the municipality, and a description of the transactions that occurred during the preceding quarter. The plan of the municipality should set out the due dates of the quarterly affidavits.

2. The plan developed by the municipality must address how the transaction must be supervised after an elected official is recused.

3. Individual transactions of \$250 or less are not required to be subject to the following rules. However, if such transactions involving a single elected official exceed \$2,500 in the aggregate within the calendar year, the guidelines contained in Rule Number 4, below, do apply.

4. For transactions in excess of \$250 but less than \$2,500, telephone quotations with written confirmation or facsimile quotations must be solicited from at least three

vendors within the municipality, the parish, or within a 50 mile radius of the municipality. However, in the case of an "emergency" no quotations shall be required so long as the elected official recuses himself or herself from the transaction and files an affidavit as required in Rule Number 1, above, within three days of the occurrence of the transaction. *Emergency* shall be defined in the plan adopted by the municipality and subject to board approval.

5. In the case of a transaction in excess of \$250 but less than \$2,500, if the quotation submitted by the elected official or legal entity in which the elected official has a controlling interest is the lowest received by the municipality the transaction is allowed. The plan adopted by the municipality and subject to board approval may specify situations in which a quotation submitted by the elected official or his or her legal entity may be accepted even if it was not the lowest received by the municipality.

6. An elected official or legal entity in which the elected official has a controlling interest may enter into transactions with the municipality in excess of \$2,500 only after written invitations are sent to at least three bona fide qualified bidders, other than the elected official or his legal entity, and upon specific advance approval by the board. Any such request for approval must include the details of the proposed transaction, a copy of the written invitation, copies of the bids received in response to the invitation, and the method of recusal developed by the municipality. The plan developed by the municipality shall set out the details of the bid process.

R. Gray Sexton
Executive Secretary

9509#015

RULE

Department of Economic Development Racing Commission

First Aid Services (LAC 35:III.5711)

The State Racing Commission hereby amends LAC 35:III.5711, First Aid Services, to update the appropriate medical personnel required to be on track grounds during racing and training hours.

Title 35

HORSE RACING

Part III. Personnel, Registration and Licensing Chapter 57. Association's Duties and Obligations §5711. First Aid Services

During racing and training hours, each association shall provide, on track grounds, a registered paramedic and a certified emergency medical technician who are trained in first aid practices, and shall provide a room or area adequately equipped in which to serve individuals in need of first aid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:434 (December 1976), amended LR 3:30 (January 1977), LR 4:278 (August 1978), LR 9:546 (August 1983), amended by the Department of Economic Development, Racing Commission, LR 16:763 (September 1990), LR 22:804 (September 1996).

Paul D. Burgess
Executive Director

9609#056

RULE

Department of Economic Development Racing Commission

Superfecta (LAC 35:XIII.11701)

The State Racing Commission hereby adopts LAC 35:XIII.11701, Superfecta, a new form of exotic wagering to be held initially at Louisiana Downs for its 1996 season.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 117. Superfecta

§11701. Superfecta

A. The Superfecta is a form of pari-mutuel wagering which consists of combining the four horses in a single race that will subsequently finish first, second, third and fourth in that race. It is not a parlay and has no connection with or relation to any other pari-mutuel pool.

B. The net pool shall be awarded to ticket holders according to the following priorities:

1. to those who select first-, second-, third- and fourth-place finishers in order. If there are no such wagers; then
2. to those who select first-, second- and third-place finishers in order. If there are no such wagers; then
3. to those who select first- and second-place finishers in order. If there are no such wagers; then
4. to those who select the winner of the race. If there are no such wagers; then
5. the entire pool shall be refunded to the participants in the pool.

C. If less than four horses finish, and the race is declared official by the stewards or judges, the payoff shall be made to ticket holders selecting the finishing horses in order, ignoring the balance of the selection.

D. In the event that more than one component of a field or entry are within the first four finishing positions, the member of the field or entry closest to the finish shall determine the winning position (first, second, third or fourth) for the field or entry. The net pool shall be awarded to the ticket holders whose selection of four horses agrees with the order of finish within the race, including the field or entry in the winning position as herein described and ignoring all other components of the field or entry. The priorities set forth in Subsection C of this Section shall apply.

E. In the event of a first place dead heat, the winners shall be as follows:

1. if four or more dead heat runners, all wagering combinations of those four runners which agree with the four dead heat runners;

2. if three dead heat runners, all wagering combinations of those three runners which agree with the three dead heat runners, and the fourth-place runner;

3. if two dead heat runners, all wagering combinations of those two runners which agree with the two dead heat runners, and the third- and fourth-place runners in order.

F. In the event of a second place dead heat, the winners shall be as follows:

1. if three or more dead heat runners, all wagering combinations which correctly select first place, combined with any three runners in the dead heat;

2. if two dead heat runners, all wagering combinations which correctly select first place, combined with either of the two dead heat runners, and the fourth-place runner.

G. In the event of a third place dead heat, the winners shall be all those correctly selecting first- and second-place runners, combined with any two of the dead heat runners.

H. In the event of a fourth place dead heat, the winners shall be all those correctly selecting first-, second- and third-place runners in order, combined with any dead heat runner.

I. In the event of dead heats where there is more than one covered winning combination, those wagering pools shall be combined then evenly split for the number of covered winning combinations.

J. If no ticket is sold that would require distribution of the net Superfecta pool to a winner as above defined, a full refund of the Superfecta pool shall be made.

K. The minimum number of wagering interests required to offer Superfecta wagering shall be eight. A late scratch after wagering begins on that race will not cancel Superfecta wagering.

L. The commission may approve Superfecta wagering on a race with a purse of \$200,000 or more where the number of scheduled starters is less than eight.

M. If a horse is scratched or declared a nonstarter, no further tickets may be issued designating such horse and all Superfecta tickets previously issued designating such horse shall be refunded and the money deducted from the gross Superfecta pool.

N. Races in which Superfecta pools are conducted shall be approved by the commission and shall be clearly designated in the program.

O. This rule shall be prominently displayed throughout the betting area of each track and distributed to patrons upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149-149.3.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 22:805 (September 1996).

Paul D. Burgess
Executive Director

9609#057

RULE

Board of Elementary and Secondary Education

Bulletin 746—Business and Office Education

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 amended the certification requirements for business and office education. These revisions printed below are an amendment to Bulletin 746, Louisiana Standards for State Certification Standards and Regulations.

Business and Office Education

A. Business Education

A minimum of 36 semester hours distributed in the following areas:	Semester Hours
Keyboarding or equivalent based on proficiency	6
Accounting	6
Computer Applications	6
Related courses in business which are essential to a well-rounded foundation (i.e., business law, economics, finance, management, marketing, accounting, and computer information systems)	9
Related courses in office systems (i.e., records management, office management, office procedures, office systems planning, business communications, and telecommunications)	6
Methods of Teaching Business, Vocational or Secondary Education	3

B. Cooperative Education

Above curriculum in (A) plus:	Semester Hours
Principles and/or Philosophy of Vocational Education	3
Cooperative Education Methods (Methods and/or Techniques of Teaching Cooperative Education)	3

A minimum of 1,500 hours of employment in business and office occupations approved by the Office of Vocational Education, Department of Education. Partial fulfillment of this work experience may be met through completion of a practicum for credit (supervised work experience) offered by the institution concerned. Two hours will be credited for each hour of supervised practicum work experience.

Mandatory September 1, 2000-2001.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

Weegie Peabody
Executive Director

9609#049

RULE

Board of Elementary and Secondary Education

Bulletin 746—Certification Requirements for Speech, Language and Hearing Specialists and Speech/Language Pathology Assistants-Level 1

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 amended Certification Requirements for Speech, Language and Hearing Specialists and Speech/Language Pathology Assistant - Level 1. These revisions are an amendment to Bulletin 746, Louisiana Standards for State Certification Standards and Regulations.

Bulletin 746

Types of Certificates for Speech, Language, and Hearing Specialists

Type C (Effective for all entering freshmen fall semester of 1985). A Type C certificate is based upon completion of an educational training program, approved by the State Board of Elementary and Secondary Education, in disorders of communication (speech, language, and hearing disorders and severe language disorders) with credits distributed as hereinafter provided, including general, professional and specialized academic education, and a master's degree in disorders of communication (speech, language, and hearing disorders and severe language disorders).

All speech, language, and hearing specialists certified prior to the fall semester, 1990, will be governed by the following provisions:

Level 1. A Level 1 certificate is issued to an individual who earns a baccalaureate degree including completion of an educational training program approved by the State Board of Elementary and Secondary Education, in disorders of communication (speech, language, and hearing disorders and severe language disorders), with credits distributed as hereinafter provided, including general, professional, and specialized academic education areas. Certification at this level requires direct supervision.

When a master's degree (or equivalent as hereinafter provided) is earned in disorders of communication (speech, language, and hearing disorders and severe language disorders), the Level 1 designation requiring direct supervision shall be removed upon request.

Definition of equivalency of master's degree: Thirty semester hours beyond the bachelor's degree that could count toward a master's degree in speech pathology and audiology; no fewer than 24 of the 30 semester hours shall be in professional content courses in speech pathology, language pathology, and audiology.

Certification Requirements for Speech, Language, and Hearing Specialists

General Education*. A minimum of 46 semester hours of credit designed to develop a broad cultural background is required. The work must be taken in the five areas listed below:

1. English: A minimum of 12 semester hours, including at least three semester hours in grammar and three semester hours in composition;

2. Social studies (anthropology, economics, geography, history, political science, sociology, and survey of social science): A minimum of 12 semester hours, including at least three semester hours in United States history;

3. Science: A minimum of 12 semester hours, including at least three semester hours in biological science, three semester hours in physical science and three semester hours in anatomy and physiology;

4. Mathematics: A minimum of six semester hours;

5. Health and physical education: A minimum of four semester hours.

*Universities which wish to require three hours of computer science of students should require a minimum of six hours in mathematics and a minimum of nine hours in science.

Professional Education. A minimum of 33 semester hours of credit in professional teacher education courses is required. The work must be taken in the four areas listed below:

1. at least three semester hours of history of education, introduction to education, foundations of education, and/or philosophy of education;

2. at least three semester hours in educational psychology and/or principles of teaching;

3. at least nine semester hours in student teaching in speech, language, and hearing therapy with individuals from birth to 22 years of age, in the public and nonpublic schools, supervised according to certification requirements for Supervisor of Student Teachers according to p. 68B of Bulletin 746 and according to the mandates of R.S. 17:7.1 and R.S. 17:7.2;

4. at least 18 semester hours of professional education to include the following:

- | | | |
|----|--|------------------|
| a. | adolescent psychology | 3 semester hours |
| b. | child psychology | 3 semester hours |
| c. | methods of public school speech, hearing, and language therapy | 3 semester hours |
| d. | introduction to exceptional children | 3 semester hours |
| e. | teaching of reading | 3 semester hours |

Special Education Requirements for Speech, Language, and Hearing Services

1. Basic Requirements

- | | | |
|-----|--|------------------|
| *a. | Educational and/or psychological tests and measurements | 3 semester hours |
| *b. | Counseling methods for teaching or psychological counseling | 3 semester hours |
| *c. | Abnormal psychology (example: psychology of adjustment, mental hygiene, psychology of the emotionally disturbed) | 3 semester hours |

2. Basic Professional Courses: Minimum of 12 semester hours to include the following:

- | | | |
|-----|--------------------|------------------|
| *a. | American phonetics | 3 semester hours |
|-----|--------------------|------------------|

*b.	Anatomy and physiology of the speech and hearing mechanism	3 semester hours
-----	--	------------------

*c.	Normal speech and language acquisition (to include cultural and regional variations)	3 semester hours
-----	--	------------------

d.	Voice science and/or acoustics	3 semester hours
----	--------------------------------	------------------

*e.	Methods and materials in speech, language, and hearing therapy in public schools (cross listed under Professional Education, Section 4.c., above)	3 semester hours
-----	---	------------------

3. Hearing and Hearing Disorders: Minimum of nine semester hours to include the following:

*a.	General foundations in audiology (including hearing testing)	3 semester hours
-----	--	------------------

b.	Advanced hearing testing	3 semester hours
----	--------------------------	------------------

*c.	Aural rehabilitation	3 semester hours
-----	----------------------	------------------

4. Speech and Language Disorders: Minimum of 30 semester hours (no more than six of which may be counted in clinical practicum credits) to include the following:

*a.	Survey of or introduction to communicative disorders	3 semester hours
-----	--	------------------

*b.	Articulation disorders	3 semester hours
-----	------------------------	------------------

*c.	Language disorders	3 semester hours
-----	--------------------	------------------

*d.	Disorders of rhythm (to include stuttering)	3 semester hours
-----	---	------------------

*e.	Voice disorders	3 semester hours
-----	-----------------	------------------

f.	Cleft palate, orofacial disorders	3 semester hours
----	-----------------------------------	------------------

g.	Neurological disorders (cerebral and peripheral neurological disorders)	3 semester hours
----	---	------------------

h.	Aphasia	3 semester hours
----	---------	------------------

i.	Diagnosis and diagnostic practicum with speech and language disorders	3 semester hours
----	---	------------------

*Indicates those courses recommended to be taught at the bachelor's level.

A minimum of 30 semester hours must be earned at the graduate level excluding six semester hours of practicums.

5. A minimum of 375 clock hours of supervised clinical practicum is required, of which at least 100 clock hours must have been earned at the undergraduate level. These hours must include experiences with individuals from birth to 21 years of age and shall include at a minimum the following distribution of hours or the distribution of hours as specified for clinical practicum by the American Speech-Language-Hearing Association (ASHA):

A minimum of 50 hours in diagnosis;

A minimum of 50 hours in hearing, testing, and auditory rehabilitation;

- A minimum of 75 hours in language disorders;
- A minimum of 30 hours in articulation disorders;
- A minimum of 30 hours in rhythm disorders.

Ancillary Certificates for Speech Therapists

An ancillary certificate authorizing service only as a speech therapist, not as a classroom teacher, may be issued based upon one of the following criteria:

1. verification that the applicant holds the ASHA Certificate of Clinical Competence;
2. verification from ASHA that the requirements for the Certificate of Clinical Competence have been met (with the possible exception of the clinical fellowship year);
3. verification from the director of an ASHA certified training program, in which the applicant has completed a master's degree, that ASHA requirements for the Certificate of Clinical Competence have been met (with the possible exception of the clinical fellowship year).

For those persons who have not completed the clinical fellowship year, this designation will be so noted on the certificate.

Types of Certificates for Speech/language Pathology Assistants-level 1

Type C. A Type C certificate for Speech/Language Pathology Assistant-Level 1, valid for three years and renewable, may be issued to an individual who earns a baccalaureate degree from a regionally accredited institution, including completion of the undergraduate portion of an educational training program, approved by the State Board of Elementary and Secondary Education, in disorders of communication (speech, language, and hearing disorders) with credits distributed as provided for speech, language, and hearing specialists, including general, professional, and specialized academic education.

Level 1 designates the requirement of direct supervision by a certified and licensed speech/language pathologist. When a master's degree is earned in disorders of communication (speech, language, and hearing disorders and severe language disorders), the Level 1 designation requiring direct supervision shall be removed upon request.

Ancillary Certificate. An ancillary certificate for Speech/Language Pathology Assistant-Level 1, valid for three years and renewable, may be issued to an individual who has earned a baccalaureate degree in speech/language pathology from a regionally accredited institution and has completed at least 100 clock hours of supervised clinical practicum.

Level 1 designates the requirement of direct supervision by a certified and licensed speech/language pathologist.

Ancillary Speech/Language Pathology Assistant-Level 1 certificates authorize service as a speech pathology assistant only, not as a regular classroom teacher.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 22:806 (September 1996).

Weegie Peabody
Executive Director

9609#050

RULE

Board of Elementary and Secondary Education

Bulletin 746—Vocational-Technical Personnel

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 amended Bulletin 746, Part B, Louisiana Standards for State Certification of School Personnel, Vocational-Technical Personnel, Postsecondary. Requirements for the certification of vocational-technical personnel, including personnel in regional centers, vocational-technical directors, assistant directors, and instructors are described, as are application procedures and due process rights for those not meeting the published requirements. The major changes in this document are:

1. New certification requirements for:
 - a. full-time degree granting programs;
 - b. automotive technology, diesel mechanics, and collision repair technology;
 - c. associate degree general education.
2. Types of Certificates
 - a. Type T;
 - b. Type P;
 - c. Type S.
3. Course Requirements
 - a. Instructors with a high school diploma/GED must complete 15 hours of VTIE courses plus the new instructor workshop and must complete A.D. requirements within six years if teaching a degree granting program.
 - b. Instructors with an associate degree must complete nine hours of VTIE courses plus the new instructor workshop.
 - c. Instructors with a B.S. noneducation degree must complete six hours of VTIE courses plus the new instructor workshop.
 - d. Instructors with a master noneducation degree must complete six hours plus the new instructor workshop.
 - e. Instructors with a bachelor's in education must complete an orientation program only.
 - f. Instructors with a master's in education must complete an orientation program only.
 - g. Six hours of core course requirements have been eliminated. Instructors may choose from nine approved courses for required hours.
4. Orientation Program
 - a. The following personnel are required to complete the Louisiana Technical College System orientation program approved by the Louisiana Technical College System: all unclassified personnel who are new to the technical college system except personnel who are required to take the new instructor workshop.
5. Work Experience. All work experience requirements have been changed to four years.
6. Changed certification requirements for:
 - a. financial aid officer;
 - b. curriculum specialist;
 - c. industrial coordinator;

- d. recruitments and placement officer;
- e. computer specialist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

Weegie Peabody
Executive Director

9609#058

RULE

Board of Elementary and Secondary Education

Bulletin 1191—School Transportation Handbook
(LAC 28:I.915)

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 amended Revised Bulletin 1191, School Transportation Handbook.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§915. Bus Transportation Standards and Regulations**

A. Bulletin 1191, School Transportation Handbook, is adopted as revised, 1996. This bulletin sets forth policies, rules and regulations for providing pupil transportation services to regular and special education students. Staff and parental responsibilities at the local level are delineated. Eligibility requirements, instructional programs, and removal procedure for bus drivers are established. Regulations are included for the operation of vehicles (for example, loading and unloading of buses, and speed limits) and for the maintenance and inspections of vehicles. Procedures are given for the determination of bus routes and for claiming state reimbursements. Student eligibility requirements and instructions for those riding the buses are given. Evaluation procedures are established. Definition of terms and summaries of relevant state laws are included as parts of the bulletin.

* * *

AUTHORITY NOTE: R.S. 17:158; R.S. 160-161; R.S. 17:164-166.

Weegie Peabody
Executive Director

9609#065

RULE

Board of Elementary and Secondary Education

Technical College System Refund Policy
(LAC 28:I.1523)

(Editor's Note: The following rule, appearing on page 453 of the June, 1996 Louisiana Register, is being republished to correct a typographical error.)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary

Education adopted an amendment to the refund policy for the Louisiana technical colleges as stated below. This is an amendment to LAC 28:I.1523.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 15. Vocational and Vocational-Technical
Education**

§1523. Students

* * *

E. Fees for Louisiana Residents

* * *

3. Tuition and Fees

a. Enrollment or re-enrollment payments or acceptable evidence of indebtedness, shall be due upon registration or re-enrollment, as part of the enrollment process.

4. State Refund Policy for the Technical College System

a. A 100 percent refund of tuition and fees will only be made when classes are closed or canceled.

b. A 75 percent refund of tuition and fees will be made to students withdrawing during the first five instructional days of the term.

c. A 50 percent refund of tuition and fees will be made to students withdrawing during the sixth to tenth instructional days of the term.

d. No refund shall be made after the tenth instructional day of the term.

e. No refund shall be made for extension classes.

NOTE: In accordance with Title IV of the higher education amendments, refunds of tuition and fees for pell grant recipients shall be made to the Pell Grant Program and not to the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(a), (10) (11); R.S. 17:1997.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 22:453 (June 1996), repromulgated LR 22:809 (September 1996).

Weegie Peabody
Executive Director

9609#063

RULE

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

Bylaws

The Louisiana Student Financial Assistance Commission (LASFAC), the statutory body created by R.S. 17:3021, et seq., in compliance with §952 of the Administrative Procedure Act, hereby adopts bylaws to govern the commission, its meetings, officers and executive staff, order of business, committees, communications to the commission, rights, duties and responsibilities of the executive staff, responsibilities of commission members, amendment or repeal of bylaws, rules and regulations.

Part I. Bylaws of the Louisiana Student Financial Assistance Commission

Article I. Definitions and Authority

Chairman of the Commission (as used in these bylaws)—the executive secretary to the governor or his/her designee, who shall serve as ex officio chairman of the commission.

Director (as used in these bylaws)—that person appointed in the classified service as the administrative head of a division of the Office of Student Financial Assistance.

Divisions (as used in these bylaws)—a subordinate organizational element of the Office of Student Financial Assistance which has been approved by the commission.

Executive Director (as used in these bylaws)—that person duly appointed by the commission pursuant to R.S. 17:3022(B) to serve in the unclassified service as executive director of the Office of Student Financial Assistance, who shall be its chief executive officer and the appointing authority for all classified employees of the office.

Fiscal Officer (as used in these bylaws)—that employee of the office assigned responsibility for preparation and monitoring the approved budget of the commission, who may jointly serve as a director.

Louisiana Student Financial Assistance Commission (as used in these bylaws)—the statutory body created by R.S. 17:3021, et seq., which shall be composed of the members who are duly appointed and qualified as provided by law. The commission shall be the governing body of the Office of Student Financial Assistance and shall establish procedures for the selection and appointment of the unclassified employees of that office, in conformance with applicable laws.

Office of Student Financial Assistance (as used in these bylaws)—the organization created by R.S. 36:650 to perform the functions of the state relating to the programs of financial assistance and the certain scholarship programs for higher education in accordance with the directives of the commission and applicable law.

Article II. Meetings

Section 1. Regular Meetings. The commission shall hold regular meetings which are limited in number to 12 per year. All regular meetings shall be held at meeting places designated by the commission. Proxy voting shall be allowed at all meetings for the chairman of: State Board of Elementary and Secondary Education; Board of Supervisors, Louisiana State University; Board of Supervisors, Southern University; Board of Regents; Board of Trustees and Louisiana Association of Independent Colleges and Universities, or each of their designees; however, any proxy holder must also be a member of that respective board. The superintendent of education may vote by proxy through a member of his/her executive staff. No other members shall have the right of proxy voting.

Section 2. Special Meetings. Special meetings of the commission may be called by the chairman at any time, or by the secretary upon written request therefor signed by a majority of the members and specifying the purposes of the desired meeting. Written notification shall be sent to each member at least three calendar days before the time of the meeting.

Section 3. Compensation. Members of the commission shall receive compensation for their service at the rate authorized by statute or as authorized by executive order, and shall be reimbursed for their necessary travel expenses actually incurred in the conduct of the business of the commission.

The commission is limited to 12 meetings per year for which per diem may be drawn by commission members.

Section 4. Quorum. A simple majority of the commissioners shall constitute a quorum for the transaction of any business, and a simple majority of the quorum present at any meeting voting in favor or against a particular item shall be the act of the commission.

Article III. Officers of the Commission and Executive Staff

Section 1. Chairman and Vice Chairman. The executive secretary to the governor or his/her designee shall serve as ex officio chairman of the commission. The commission shall select a vice chairman annually. Should a vacancy occur in the vice chairmanship, the commission shall elect a successor from its membership. The commission may elect such other officers as it deems necessary.

The chairman of the commission shall preside over all meetings of the commission, serve as ex officio member of all committees, name the appointive members of all standing and special committees of the commission, and fill all vacancies in the membership of such committees, in accordance with the provisions of these bylaws.

The vice chairman of the commission shall perform the duties of the chairman in the absence of the chairman of the commission.

In the event both the chairman and the vice chairman are absent from a commission meeting, the commission shall elect a temporary chairman from those present.

Section 2. Secretary. The commission shall elect a secretary annually, who may certify the minutes, papers and documents of the commission or of its committees to be true and correct copies.

Section 3. Executive Staff. The executive staff of the commission shall include the incumbent of those positions within the Office of Student Financial Assistance so designated by the executive director and will normally be composed of the executive director, the staff attorney, the fiscal officer and the directors of the divisions of the office, and such other personnel as may be required for the efficient performance of the functions of the commission. The executive staff shall be tasked, directed and supervised by the executive director.

Section 4. Authentication. Copies of all minutes, papers and documents of the commission, or its committees, may be certified to be true and correct copies by either the chairman, secretary or executive director.

Article IV. Order of Business

Section 1. Rules of Order. When not in conflict with any of the provisions of this article, *Robert's Rules of Order* (latest revision) shall constitute the rules of parliamentary procedure applicable to all meetings of the commission or its committees.

Section 2. Order of Business. The order of business of regular meetings of the commission shall be as follows:

- a. roll call;
- b. corrections and approval of minutes of preceding regular meetings and of all special meetings held subsequent thereto;
- c. reports and recommendations of standing and special committees;
- d. unfinished business;
- e. divisional updates;
- f. new business;
- g. next meeting.

Section 3. Reference to Committees. In cases where feasible and desirable before taking action, the commission should refer any subject or measure to the standing or special committee in whose purview the matter falls. The committee to which the matter is referred should submit to the commission its recommendations in writing, together with any resolutions necessary to facilitate such recommendations.

Section 4. Meetings. Meetings shall be conducted in accordance with state law governing public bodies. It shall be the policy of the commission that all meetings be open to all who wish to attend. The commission shall enter into a closed or executive session by two-thirds majority vote of the quorum present. Prior to each regular meeting of the commission, the executive director, with approval of the chairman, shall prepare and forward to each member of the commission a tentative agenda for the meeting at least five working days prior to such regular meeting. Upon request of three members of the commission made prior to the fifth day before the next commission meeting that a particular item be included, the chairman shall place the subject or subjects upon the agenda. All matters requiring commission action, however, may be acted on even though not carried on the agenda.

Each resolution shall be reduced to writing and presented to the commission before it is acted upon. All official actions of the commission shall require a simple majority vote of the quorum present at the meeting.

Section 5. Minutes. The minutes of the commission shall record official action taken upon motions or resolutions which are voted upon by the commission and may contain a summary of reports and pertinent discussion. The foregoing provisions relative to contents of the minutes shall, in general, also apply to minutes of committees of the commission. The minutes of meetings of the commission become official only when completed and approved by the commission.

Section 6. Meeting Attendance. Commission members are required to attend all commission meetings. Failure to attend three meetings annually will result in a notice being sent from the commission to the absent member stating that failure to attend one more meeting will result in a request being made to the appointing authority that the absent member be replaced. In the event a fourth meeting is missed, said request shall be sent to the appointing authority. Also, the absent member shall be relieved of duties on any committee to which he/she has been appointed to serve. This section is not applicable to meetings that are missed with just cause, as determined by the chairman.

Article V. Committees

Section 1. Standing Committees. Unless and until otherwise decided by the vote of a simple majority of the membership of the commission, the standing committees of the commission shall consist of the following:

- a. Executive Committee;
- b. Budget and Finance Committee;
- c. Personnel and Policy Committee.

Section 2. Appointment and Terms. Members of all standing committees, one of whom shall be designated as chairman and one of whom shall be designated as vice chairman, shall be appointed by the chairman of the commission, ordinarily soon after the chairman assumes office. The term of committee appointments shall be one year.

Vacancies occurring among the appointive members of any committees, however arising, shall be filled by the chairman of the commission for the remainder of the unexpired term.

Section 3. Officers of Standing Committees. The chairman and the vice chairman of the commission shall be chairman and vice chairman, respectively, of the executive committee. In the absence of the chairman, the vice chairman shall preside. In the event both the chairman and vice chairman are absent from a meeting, the committee shall elect a temporary chairman from those present.

It shall be the duty of the chairman of each committee to call and to preside over the necessary meetings. The minutes of the meeting of the committee, showing its actions and recommendations, shall be deemed in compliance with the provisions of Article IV, Section 3, hereof, concerning the written recommendations of the committee.

Section 4. Quorum of Committee Meetings. A simple majority of the membership present at a meeting of a committee of the commission shall constitute a quorum for the transaction of business. When a quorum is not present, the chairman of the committee, or vice chairman in the chairman's absence, may designate a member of the commission to serve as a substitute member of the committee concerned.

Section 5. Authority of Committees. The authority of committees of the commission shall be subject to these bylaws and to the policies and direction of the commission.

Section 6. Executive Committee. The executive committee shall consist of five members. The chairman and vice chairman of the commission shall serve in those capacities on the executive committee. The chairman of each of the other standing committees or the chair's designee from his respective committee shall be a member of the executive committee. The remaining person, for a total of five members, shall be appointed by the chairman of the commission from the other members of the commission.

The executive committee shall consider such matters as shall be referred to it by the commission and shall execute such orders and resolutions as shall be assigned to it at any meeting of the commission. All official actions of the executive committee shall require a majority vote of the quorum present at the meeting. The executive committee shall also approve all budget adjustments prior to submission to the appropriate authority. In the event that an emergency requiring immediate commission action shall arise between

commission meetings, it shall be the duty of the executive committee to meet in emergency session to take such action as may be necessary and appropriate. The executive committee shall report the actions it takes in emergency session to the commission for ratification at the commission's next meeting.

Section 7. Budget and Finance Committee. The Budget and Finance Committee shall consist of not less than six members of the commission. Normally, to this committee shall be referred all matters related to budget and to policies concerning the financial management of the commission and the office.

Section 8. Personnel and Policy Committee. The Personnel and Policy Committee shall consist of not less than six members of the commission. Normally, to this committee shall be referred matters concerning reorganization of the office. This committee shall hear appeals pursuant to the office's grievance procedure.

Section 9. Special Committees. As the necessity therefor arises, the chairman may, with the concurrence of the commission, create special committees with such functions, powers and authority as may be delegated. The chairman may appoint ad hoc committees for special assignments for limited periods of existence not to exceed the completion of the assigned task.

Article VI. Communications to the Commission

Section 1. All communications to the commission, or to any committee thereof, from persons having official relations with the commission shall be filed in writing with the executive director and duly transmitted by him to the commission. The executive director shall have the authority to read and comment upon all communications from employees of the office but shall not delay or withhold such communications, except as hereinafter provided. Such communications shall be filed with the executive director at least five days before the meeting of the commission or committee and with the chairman at least three days before such meeting. Otherwise, the executive director may either submit such communication at that time or withhold such communication until the next meeting. In the event the executive director elects to withhold any such communication until the next meeting, such communication shall be promptly forwarded to the chairman with the notation of the executive director concerning such withholding.

Article VII. Rights Duties and Responsibilities of the Executive Staff of the Commission

Section 1. Executive Staff of the Commission. The executive staff of the commission staff shall include the incumbent of those positions within the Office of Student Financial Assistance so designated by the executive director and will normally be composed of the executive director, the staff attorney, the fiscal officer and the directors of the divisions of the office, and such other personnel as may be required for the efficient performance of the functions of the commission. The executive staff shall be tasked, directed and supervised by the executive director.

Unless otherwise directed by the executive director, the executive staff shall attend the meetings of the commission and its various committees.

Section 2. Executive Director

a. The executive director shall be the executive head and chief administrative officer of the Office of Student Financial Assistance. The executive director will be responsible to the commission for the conduct of the Office of Student Financial Assistance in all affairs and shall execute and enforce all of the decisions, orders, rules and regulations of the commission with respect to the conduct of the Office of Student Financial Assistance. The executive director shall be appointed by and shall hold office at the pleasure of the commission. The executive director's discretionary authority shall be broad enough to enable him/her to meet his/her responsibilities, in the day-to-day operations of the Office of Student Financial Assistance.

b. The executive director shall be the "appointing authority" for the purposes defined by state civil service law, rules and regulations and shall exercise the authority granted to an "appointing authority" thereunder.

c. Subject to these bylaws and the regulations and directions of the commission, the executive director shall:

1. establish administrative policies and procedures for the operation of the Office of Student Financial Assistance;

2. plan, organize, supervise, direct, administer, and execute the functions and activities of the Office of Student Financial Assistance;

3. prepare and present a business plan and consolidated budget for the Office of Student Financial Assistance and the commission;

4. serve as governmental liaison and spokesperson for the commission;

5. promote the development of the commission's programs.

d. The executive director shall task, direct, and supervise the executive staff.

e. The executive director shall be responsible for ensuring compliance with the legislatively enacted budgets as approved by the commission.

Section 3. Directors of Divisions

a. There shall be a director for each division of the Office of Student Financial Assistance, appointed by the executive director in accordance with state civil service laws, rules and regulations. Under the direction and authority of the executive director and the rules of the commission, each director shall administer the division for which he/she is appointed.

b. As the administrative head of a division, the director shall be responsible to the executive director for planning, supervising, directing, administering and executing the functions and programs assigned to the division in accordance with all applicable laws, rules, regulations, policies, directives, and budgets.

c. The directors may invite members of his/her administrative staff to aid him in his/her presentations to the commission.

Section 4. Delegation of Authority

In the absence of the executive director, the director of the loan division, as delegated by the executive director during his/her absences, will assume the duties of the executive director. In the event both the executive director and the

director of the loan division are absent, the executive director will appoint another division director to assume the duties of the executive director.

Section 5. Agency Fiscal Officer (Manager)

The fiscal officer is responsible for assisting the directors in developing annual operating budgets based upon the commission's approved business plan. This shall include the functions of review and recommendations concerning the budget of each division and the preparation of a consolidated budget, as well as monitoring and reporting the budget as approved by the commission and enacted by the state legislature.

Article VIII. Responsibilities of Commission Members

Commission members are charged with the responsibility of ensuring that the functions and duties of the Office of Student Financial Assistance are performed effectively in fulfilling the purposes of R.S. 17:3021 et seq. Prior to assuming the responsibilities to which appointed and to avoid any potential conflict of interest, a commissioner shall, to the best of his or her knowledge, disclose to the State Board of Ethics any pre-existing relationship between the commission and the commissioner or any member of the commissioner's immediate family or any entity in which the commissioner has a substantial economic interest. This obligation to disclose is a continuing obligation.

Article IX. Amendment or Repeal of Bylaws

New bylaws may be adopted, and bylaws may be amended or repealed, at any meeting of the commission, but no such action shall be taken unless notice of such proposed adoption, amendment, or repeal shall have been given at a previous meeting or notice in writing of the proposed change shall have been served upon each member of the commission at least 30 days in advance of the final vote upon such change, provided, however, when deemed necessary, that by a simple majority of the entire membership of the commission, the requirements for such notice may be waived at any time.

Article X. Rules and Regulations of Louisiana Student Financial Assistance Commission

Section 1. Any action by the commission establishing policy or methods of procedure, administrative, business, or otherwise shall be known as "Rules and Regulations of the Louisiana Student Financial Assistance Commission."

Section 2. "Rules and Regulations of the Louisiana Student Financial Assistance Commission" may be adopted by the commission, or may be amended or repealed, in whole or in part, at any meeting of the commission by a vote of simple majority.

Section 3. All policies and procedures of the commission falling within the definition of rules and regulations, as herein defined, and in existence upon the date of the adoption of these bylaws, shall be a part of the "Rules and Regulations of the Louisiana Student Financial Assistance Commission."

Article XI.

These bylaws shall be adopted and shall become effective on the date they are published as final rule in the *Louisiana Register*.

Article XII. Repealing Clause

All rules, orders, regulations, and resolutions heretofore

enacted or adopted by this commission, which are in conflict with these bylaws, are hereby repealed.

Jack L. Guinn
Executive Director

9609#017

RULE

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

EPA Documents

(LAC 33:V.Chapters 1, 3, 5, 11, 15, 17,
19, 22, 25, 30, 31, 40, 43, and 49)(HW053)

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 Hazardous Waste Division regulations, LAC 33:V.Chapters 1, 3, 5, 11, 15, 17, 19, 22, 25, 30, 31, 40, 43, and 49 (HW053).

This rule adopts EPA guidance documents by reference, adopts 40 CFR 266.Appendices relating to boilers and industrial furnaces by reference, and refers to the EPA publication SW-846 for TCLP, Chemical Analysis Test Methods, Method of Analysis for Chlorinated Dibenzo-p-dioxins and Dibenzofurans, and Extraction Toxicity Test.

These revisions are being made to maintain authorization from the Environmental Protection Agency to manage the Hazardous Waste Program. These revisions will also provide consistency between the state regulations and the federal regulations.

This rule is identical to a federal law or regulation which is applicable in Louisiana, therefore, no fiscal or economic impact will result from the proposed rule. The rule is being promulgated in accordance with R.S. 49:953(F)(3) and (4).

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including "solid waste" and "hazardous waste," appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

* * *

[See Prior Text in A-I.2.b]

c. comparative results obtained from using the proposed method with those obtained from using the relevant

or corresponding methods prescribed in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication Number SW-846, as incorporated by reference at LAC 33:V.110;

* * *

[See Prior Text in I.2.d-M.3.a]

i. does not contain the constituent or constituents (as defined in LAC 33:V.4901.G.Table 6) that caused the administrative authority to list the waste, using the appropriate test methods prescribed in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110; or

* * *

[See Prior Text in M.3.a.ii-10]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996).

§109. Definitions

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

* * *

[See Prior Text]

Sorbent—a material that is used to soak up free liquids by either adsorption or absorption, or both. Sorb means to either adsorb or absorb, or both.

* * *

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996).

§110. References

A. When used in LAC 33:V the following publications are incorporated by reference:

1. "ASTM Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester," ASTM Standard D-3278-78, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

2. "ASTM Standard Test Methods for Flash Point by Pensky-Martens Closed Tester," ASTM Standard D-93-79 or D-93-80. D-93-80 is available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

3. "ASTM Standard Method for Analysis of Reformed Gas by Gas Chromatography," ASTM Standard D 1946-82, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

4. "ASTM Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method)," ASTM Standard D 2382-83, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

5. "ASTM Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis," ASTM Standard E 169-87, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

6. "ASTM Standard Practices for General Techniques of Infrared Quantitative Analysis," ASTM Standard E 168-88, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

7. "ASTM Standard Practice for Packed Column Gas Chromatography," ASTM Standard E 260-85, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

8. "ASTM Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography," ASTM Standard D 2267-88, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

9. "APTI Course 415: Control of Gaseous Emissions," EPA Publication EPA-450/2-81-005, December 1981, available from National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161;

10. "Flammable and Combustible Liquids Code" (1977 or 1981), available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, MA 02210;

11. "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846 [Third Edition (November, 1986), as amended by Updates I (July, 1992), II (September, 1994), IIA (August, 1993), and IIB (January, 1995)]. The Third Edition of SW-846 and Updates I, II, IIA, and IIB (document number 955-001-00000-1) are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800. Copies may be inspected at the Library, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460;

12. "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," October 1992, EPA Publication Number EPA-450/R-92-019, Environmental Protection Agency, Research Triangle, Park, NC;

13. "ASTM Standard Test Methods for Preparing Refuse-Derived Fuel (RDF) Samples for Analyses of Metals," ASTM Standard E 926-88, Test Method C—Bomb, Acid Digestion Method, available from American Society for Testing Materials, 1916 Race Street, Philadelphia, PA 19103;

14. API Publication 2517, Third Edition, February 1989, "Evaporative Loss from External Floating-Roof Tanks," available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, DC 20005; and

15. "ASTM Standard Test Method for Vapor Pressure—Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope," ASTM Standard D 2879-92, available from American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103.

0010	Modified Method 5 Sampling Train
0020	Source Assessment Sampling System (SASS)
0030	Volatile Organic Sampling Train
1320	Multiple Extraction Procedure
1330	Extraction Procedure for Oily Wastes
3611	Alumina Column Cleanup and Separation of Petroleum Wastes
5040	Protocol for Analysis of Sorbent Cartridges from Volatile Organic Sampling Train
6010	Inductively Coupled Plasma Atomic Emission Spectroscopy
7090	Beryllium (AA, Direct Aspiration)
7091	Beryllium (AA, Furnace Technique)
7198	Chromium, Hexavalent (Differential Pulse Polarography)
7210	Copper (AA, Direct Aspiration)
7211	Copper (AA, Furnace Technique)
7380	Iron (AA, Direct Aspiration)
7381	Iron (AA, Furnace Technique)
7460	Manganese (AA, Direct Aspiration)
7461	Manganese (AA, Furnace Technique)
7550	Osmium (AA, Direct Aspiration)
7770	Sodium (AA, Furnace Technique)
7840	Thallium (AA, Direct Aspiration)
7841	Thallium (AA, Furnace Technique)
7910	Vanadium (AA, Direct Aspiration)
7911	Vanadium (AA, Furnace Technique)
7950	Zinc (AA, Direct Aspiration)
7951	Zinc (AA, Furnace Technique)
9022	Total Organic Halides (TOX) by Neutron Activation Analysis
9035	Sulfate (Colorimetric, Automated, Chloranilate)
9036	Sulfate (Colorimetric, Automated, Methylthymol Blue, AA II)
9038	Sulfate (Turbidimetric)
9060	Total Organic Carbon

9065	Phenolics (Spectrophotometric, Manual 4-AAP with Distillation)
9066*	Phenolics (Colorimetric, Automated, 4-AAP with Distillation)
9067	Phenolics (Spectrophotometric, MBTH with Distillation)
9070	Total Recoverable Oil and Grease (Gravimetric, Separatory Funnel Extraction)
9071	Oil and Grease Extraction Method for Sludge Samples
9080	Cation-Exchange Capacity of Soils (Ammonium Acetate)
9081	Cation-Exchange Capacity of Soils (Sodium Acetate)
9100	Saturated Hydraulic Conductivity, Saturated Leachate Conductivity, and Intrinsic Permeability
9131	Total Coliform: Multiple Tube Fermentation Technique
9132	Total Coliform: Membrane Filter Technique
9200	Nitrate
9250	Chloride (Colorimetric, Automated Ferricyanide AAI)
9251	Chloride (Colorimetric, Automated Ferricyanide AAI)
9252	Chloride (Titrimetric, Mercuric Nitrate)
9310	Gross Alpha and Gross Beta
9315	Alpha-Emitting Radium Isotopes
9320	Radium-228

* When Method 9066 is used it must be preceded by the manual distillation specified in procedure 7.1 of Method 9065. Just prior to distillation in Method 9065, adjust the sulfuric acid-preserved sample to pH 4 with 1 + 9 NaOH. After the manual distillation is completed, the autoanalyzer manifold is simplified by connecting the resample line directly to the sampler.

B. The references listed in Subsection A of this Section are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. These materials are incorporated as they exist on the date that this rule is promulgated and a notice of any change in these materials will be published in the *Louisiana Register*.

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 22:814 (September 1996).

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§322. Classification of Permit Modifications

The following is a listing of classifications of permit modifications made at the request of the permittee.

Modifications

[See Prior Text in A-K.18]

L. Incinerators, Boilers, and Industrial Furnaces

1. Changes to increase by more than 25 percent any of the following limits authorized in the permit: a thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The administrative authority will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

3

2. Changes to increase by up to 25 percent any of the following limits authorized in the permit: a thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The administrative authority will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

2

3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HCl/Cl₂, metals, or particulate from the combustion gases, or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The administrative authority will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

3

4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that would not be likely to affect the capability of the unit to meet the regulatory performance standards but that would change the operating conditions or monitoring requirements specified in the permit. The administrative authority may require a new trial burn to demonstrate compliance with the regulatory performance standards.

2

Class

5. Operating requirements:

a. modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, or oxygen concentration in the secondary combustion chamber, flue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The administrative authority will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

3

[See Prior Text in L.5.b-c]

6. Burning of different wastes:

a. if the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The administrative authority will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

3

b. if the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit.

2

Note: See LAC 33:V.321.C.7 for modification procedures to be used for the management of newly listed or identified wastes.

[See Prior Text in L.7-7.a]

b. authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the administrative authority.

1

[See Prior Text in L.7.c-d]

8. Substitution of an alternate type of nonhazardous waste fuel that is not specified in the permit.

2

[See Prior Text in M-N.2]

¹ Class 1 modifications requiring prior administrative authority approval.

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 13:433 (August 1987), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:815 (September 1996).

Chapter 5. Permit Application Contents
Subchapter E. Specific Information Requirements
§529. Specific Part II Information Requirements for Incinerators

Except as LAC 33:V.Chapter 31 provides otherwise, owners and operators of facilities that incinerate hazardous waste must fulfill the requirements of Subsection A, B, or C of this Section.

[See Prior Text in A-C.1.b]

c. an identification of any hazardous organic constituents listed in Table 1, LAC 33:V.Chapter 31, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Table 1, LAC 33:V.Chapter 31, which would reasonably not be expected to be found in the waste; the constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or their equivalent.

d. an approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110;

[See Prior Text in C.1.e-D.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 10:280 (April 1984), LR 22:817 (September 1996).

§530. Specific Part II Information Requirements for Process Vents

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that have process vents to which LAC 33:V.Chapter 17, Subchapter A applies must provide the following additional information:

[See Prior Text in A-D.2]

3. a design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions," as incorporated by reference at LAC 33:V.110, or other engineering texts acceptable to the administrative authority that present basic control device design information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in LAC 33:V.1713.B.4.a;

[See Prior Text in D.4-5]

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 17:658 (July 1991), amended LR 18:1256 (November 1992), LR 22:817 (September 1996).

§535. Specific Part II Information Requirements for Boilers and Industrial Furnaces Burning Hazardous Waste for Energy or Material Recovery and not for Destruction

[See Prior Text in A-A.2.b.iv]

v. documentation that the maximum annual average ground level concentration of each constituent identified in Subsection A.2.b.ii of this Section quantified in conformance with Subsection A.2.b.iv of this Section does not exceed the allowable ambient level established in 40 CFR 266, appendices IV or V, as adopted and amended at LAC 33:V.Chapter 30, Appendices D and E. The acceptable ambient concentration for emitted constituents for which a specific Reference Air Concentration has not been established in 40 CFR 266, Appendix IV, as adopted and amended at LAC 33:V.Chapter 30, Appendix D or Risk-Specific Dose has not been established in 40 CFR 266, Appendix V, as adopted at LAC 33:V.Chapter 30, Appendix E, is 0.1 micrograms per cubic meter, as noted in the footnote to 40 CFR 266, Appendix IV, as adopted and amended at LAC 33:V.Chapter 30, Appendix D.

[See Prior Text in A.3-F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:817 (September 1996).

§536. Specific Part II Information Requirements for Equipment

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that have equipment to which LAC 33:V.Chapter 17, Subchapter B applies must provide the following additional information.

[See Prior Text in A-E.2]

3. a design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions," as incorporated by reference at LAC 33:V.110, or other engineering texts acceptable to the administrative authority that present basic control device design information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in LAC 33:V.1713.B.4.c;

[See Prior Text in E.4-5]

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 17:658 (July 1991), amended LR 18:1256 (November 1992), LR 22:817 (September 1996).

Subchapter F. Special Forms of Permits

§537. Permits for Boiler and Industrial Furnaces Burning Hazardous Waste for Recycling Purposes Only (boilers and industrial furnaces burning hazardous waste for destruction are subject to permit requirements for incinerators)

[See Prior Text in A-B.2.b.ii]

(a). an identification of any hazardous organic constituents listed in LAC 33:V.Chapter 31. Table 1, that are present in the feed stream, except that the applicant need not analyze for constituents listed in Table 1 that would reasonably not be expected to be found in the hazardous waste. The constituents excluded from analysis must be identified and the basis for this exclusion explained. The waste analysis must be conducted in accordance with analytical techniques specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or an equivalent method;

(b). an approximate quantification of the hazardous constituents identified in the hazardous waste, within the precision produced by the analytical methods specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or an equivalent method;

[See Prior Text in B.2.b.ii.(c)-3.b]

4. Final Permit. For the final period of operation, the administrative authority will develop operating requirements in conformance with LAC 33:V.3005.E that reflect conditions in the trial burn plan and are likely to ensure compliance with the performance standards of LAC 33:V.3009-3015. Based on the trial burn results, the administrative authority will modify the permit as necessary to ensure compliance with the performance standards of LAC 33:V.3009-3015. The permit modification shall proceed according to LAC 33:V.321.

[See Prior Text in C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:818 (September 1996).

Chapter 11. Generators

§1103. Hazardous Waste Determination

A person who generates a solid waste, as defined in LAC 33:V.109, must determine if that waste is a hazard.

[See Prior Text in A-B]

1. testing the waste according to the methods set forth in the "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or according to an equivalent method approved by the administrative authority; or

[See Prior Text in B.2-C]

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 15:378 (May 1989), LR 17:658 (July 1991), LR 22:818 (September 1996).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1519. General Waste Analysis

[See Prior Text in A-B.1]

2. the test methods as specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or an equivalent method approved by the administrative authority, which will be used to test for these parameters; and

[See Prior Text in B.3-D]

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 15:378 (May 1989), LR 16:220 (March 1990), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:818 (September 1996).

Chapter 17. Air Emission Standards

Subchapter A. Process Vents

§1711. Test Methods and Procedures

[See Prior Text in A-D.1.b]

c. Each sample shall be analyzed, and the total organic concentration of the sample shall be computed using Method 9060 or 8240 of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

[See Prior Text in D.1.d-F]

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 17:658 (July 1991), amended LR 20:1000 (September 1994), LR 22:818 (September 1996).

§1713. Recordkeeping Requirements

[See Prior Text in A-B.4.b]

c. if engineering calculations are used, a design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions," as incorporated by reference at LAC 33:V.110, or other engineering texts acceptable to the administrative authority that present basic control device design information. Documentation provided by the control device manufacturer or vendor that describes the control device design in accordance with LAC 33:V.1713.B.4.c.i-vii may be used to comply with this requirement. The design analysis shall address the vent stream characteristics and control device operation parameters as specified below;

[See Prior Text in B.4.c.i-F]

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 17:658 (July 1991), amended LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 22:818 (September 1996).

Subchapter B. Equipment Leaks

§1741. Test Methods and Procedures

[See Prior Text in A-D]

1. methods described in ASTM Methods D 2267-88, E 169-87, E 168-88, E 260-85, as incorporated by reference at LAC 33:V.110;

2. method 9060 or 8240 of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110; or

[See Prior Text in D.3-G]

H. To determine whether pumps or valves are in light liquid service, the vapor pressures of constituents may be obtained from standard reference texts or may be determined by ASTM D-2879-86, as incorporated by reference at LAC 33:V.110.

[See Prior Text in I]

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 17:658 (July 1991), amended LR 20:1000 (September 1994), LR 22:819 (September 1996).

Chapter 19. Tanks

§1901. Applicability

The requirements of this Chapter apply to owners and operators of facilities that use tank systems for storing or treating hazardous waste except as otherwise provided in Subsections A and B of this Section or LAC 33:V.105.D.

A. Tank systems that are used to store or treat hazardous waste that contains no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements of LAC 33:V.1907. To demonstrate the absence or presence of free liquids in the stored/treated waste, the following test method must be used: EPA Method 9095 (Paint Filter Liquids) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

[See Prior Text in B-D]

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 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 22:819 (September 1996).

§1917. Special Requirements for Ignitable or Reactive Wastes

[See Prior Text in A-A.3]

B. The owner or operator of a facility where ignitable or reactive waste is stored or treated in a tank must comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon as required in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code," (1977 or 1981), as incorporated by reference at LAC 33:V.110.

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 13:651 (November 1987), LR 22:819 (September 1996).

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2213. Waste-specific Prohibitions - California List Wastes

[See Prior Text in A-E]

F. To determine whether or not a waste is a liquid under Subsections A and C of this Section, the following test must be used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication Number SW-846, as incorporated by reference at LAC 33:V.110.

[See Prior Text in G-G.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), LR 22:819 (September 1996).

§2223. Applicability of Treatment Standards

[See Prior Text in A-A.3]

B. For wastewaters, compliance with concentration level standards is based on maximums for any one day, except for D004-D011 wastes for which the previously promulgated treatment standards based on grab samples remain in effect. For all nonwastewaters, compliance with concentration level standards is based on grab sampling. For wastes covered by the waste extract standards, the Test Method 1311, the Toxicity Characteristic Leaching Procedure as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, must be used to measure compliance. An exception is made for D004 and D008, for which either of two test methods may be used: Method 1311 or Method 1310, the Extraction Procedure Toxicity Test. For wastes covered by a technology standard, the wastes may be land disposed after being treated using that specified technology or an equivalent treatment technology approved by the administrative authority under the procedures set forth in LAC 33:V.2227.

[See Prior Text in C-D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR

16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:819 (September 1996).

§2225. Treatment Standards Expressed as Concentrations in Waste Extract

A. LAC 33:V.Chapter 22.Table 2 identifies the prohibited wastes and the concentrations of their associated hazardous constituents that may not be exceeded in the extract of a waste or waste treatment residual extracted according to the Toxicity Characteristic Leaching Procedure as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, for the allowable land disposal of such wastes.

* * *

[See Prior Text in B]

C. The treatment standards for F001-F005 nonwastewater constituents carbon disulfide, cyclohexanone, and/or methanol apply to wastes that contain only one, two, or three of these constituents. Compliance is measured for these constituents in the waste extract from test Method 1311, the Toxicity Characteristic Leaching Procedure as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110. If the waste contains any of these three constituents along with any of the other 25 constituents found in F001-F005, then compliance with treatment standards for carbon disulfide, cyclohexanone, and/or methanol are not required.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:820 (September 1996).

§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements

A. Except as specified in LAC 33:V.2213, if a generator's waste is listed in LAC 33:V.Chapter 49, the generator must test his or her waste or test an extract using Method 1311, the Toxicity Characteristic Leaching Procedure, described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or use knowledge of the waste to determine if the waste is prohibited from land disposal under this Chapter. Except as specified in LAC 33:V.2213, if a generator's waste exhibits one or more of the characteristics set out at LAC 33:V.4903, the generator must test an extract using Method 1311, the Toxicity Characteristic Leaching Procedure, described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or use knowledge of the waste, to determine if the waste is prohibited from land disposal under this Chapter. If the generator determines that his waste exhibits the characteristic of ignitability (D001) (and is not in the High TOC Ignitable Liquids Subcategory or is not treated by CMBST or RORGS of Table 3 of this Chapter), or the characteristic of corrosivity

(D002), and the waste is prohibited under LAC 33:V.2221, and/or the characteristic of organic toxicity (D012-D043), and is prohibited under LAC 33:V.2221.E, the generator must determine the underlying hazardous constituents, as defined in LAC 33:V.2203, in the D001, D002, or D012-D043 waste.

* * *

[See Prior Text in B-E.3]

F. If a generator determines whether the waste is prohibited solely on the basis of his or her knowledge of the waste, all supporting data used to make this determination must be retained on-site in the generator's files. If a generator determines whether the waste is prohibited on the basis of tests of this waste or an extract developed using the Toxicity Characteristic Leaching Procedure and test methods in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, all waste analysis data must be retained on-site in the generator's files.

* * *

[See Prior Text in G-K]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996).

§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Recordkeeping, and Notice Requirements

* * *

[See Prior Text in A]

1. For wastes with treatment standards expressed as concentrations in the waste extract (LAC 33:V.2225), the owner or operator of the treatment facility must test the treatment residues, or an extract of such residues developed using the Toxicity Characteristic Leaching Procedure and the test methods in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, to assure that the treatment residues or extract meet the applicable treatment standards.

* * *

[See Prior Text in A.2-H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996).

Subchapter B. Hazardous Waste Injection Restrictions

§2271. Exemptions to Allow Land Disposal of a Prohibited Waste by Deep Well Injections

* * *

[See Prior Text in A-Table 7, footnote 3]

⁴ Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010 or 9012, found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as

incorporated by reference at LAC 33:V.110, with a sample size of 10 grams and a distillation time of one hour and 25 minutes.

* * *

[See Prior Text in footnote 5-Table 11,
Certification Statement: G]

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 22:22 (January 1996), amended LR 22:820 (September 1996).

Chapter 25. Landfills

§2515. Special Requirements for Bulk and Containerized Liquids

* * *

[See Prior Text in A-C.4]

D. To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

* * *

[See Prior Text in E-F.2.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:821 (September 1996).

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3001. Applicability

* * *

[See Prior Text in A-C]

1. To be exempt from LAC 33:V.3005-3023, an owner or operator of a metal recovery furnace or mercury recovery furnace must comply with the following requirements (except that an owner or operator of a lead or a nickel-chromium recovery furnace or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing must comply with the requirements of Subsection C.3 of this Section):

* * *

[See Prior Text in C.1.a-a.iv]

b. sample and analyze the hazardous waste and other feedstocks as necessary to comply with the requirements of this Section under procedures specified by "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or alternative methods that meet or exceed the SW-846 method performance capabilities. If SW-846 does not prescribe a method for a particular determination, the owner or operator shall use the best available method; and

* * *

[See Prior Text in C.1.c-2.b]

3. To be exempt from LAC 33:V.3005-3023, an owner or operator of a lead or nickel-chromium or mercury recovery furnace or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing

must provide a one-time written notice to the administrative authority identifying each hazardous waste burned, specifying whether the owner or operator claims an exemption for each waste under Subsection C.1 or C.3 of this Section. The owner or operator must comply with the requirements of Subsection C.1 of this Section for those wastes claimed to be exempt under that section and must comply with the requirements below for those wastes claimed to be exempt under this Section.

a. The hazardous wastes listed in 40 CFR 266, appendices XI, XII, and XIII, as adopted and amended at Appendices K, L, and M of this Chapter, and baghouse bags used to capture metallic dusts emitted by steel manufacturing are exempt from the requirements of Subsection C.1 of this Section, provided that:

i. a waste listed in 40 CFR 266, Appendix IX, as adopted at Appendix I of this Chapter, must contain recoverable levels of lead, a waste listed in 40 CFR 266, Appendix XII, as adopted and amended at Appendix L of this Chapter, must contain recoverable levels of nickel or chromium, a waste listed in 40 CFR 266, Appendix XIII, as adopted and amended at Appendix M of this Chapter, must contain recoverable levels of mercury and contain less than 500 ppm of LAC 33:V.3105.Table 1 organic constituents, and baghouse bags used to capture metallic dusts emitted by steel manufacturing must contain recoverable levels of metal;

* * *

[See Prior Text in C.3.a.ii-iv]

b. the administrative authority may decide on a case-by-case basis that the toxic organic constituents in a material listed in 40 CFR 266, Appendix XI, XII, or XIII, as adopted and amended at Appendices K, L, and M of this Chapter, that contains a total concentration of more than 500 ppm toxic organic compounds listed in LAC 33:V.3105.Table 1 may pose a hazard to human health and the environment when burned in a metal recovery furnace exempt from the requirements of this Chapter. In that situation, after adequate notice and opportunity for comment, the metal recovery furnace will become subject to the requirements of this Chapter when burning that material. In making the hazard determination, the administrative authority will consider the following factors:

* * *

[See Prior Text in C.3.b.i-ii]

iii. whether the acceptable ambient levels established in 40 CFR 266, Appendix IV or V, as adopted and amended at Appendices D and E of this Chapter, may be exceeded for any toxic organic compound that may be emitted based on dispersion modeling to predict the maximum annual average off-site ground level concentration.

* * *

[See Prior Text in D-F.1.a.iii]

b. sample and analyze the hazardous waste as necessary to document that the waste is burned for recovery of economically significant amounts of precious metal using procedures as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or alternative methods that meet or exceed the SW-846 method performance capabilities. If SW-846 does not prescribe a

method for a particular determination, the owner or operator shall use the best available method; and

* * *

[See Prior Text in F.1.c]

[Note: Parts of this Section were previously promulgated in LAC 33:V.4142, which has been repealed]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:821 (September 1996).

§3005. Permit Standards for Burners

* * *

[See Prior Text in A-B]

1. The owner or operator must provide an analysis of the hazardous waste that quantifies the concentration of any constituent identified in LAC 33:V.Chapter 31, Table 1, that may reasonably be expected to be in the waste. Such constituents must be identified and quantified at levels detectable by analytical procedures prescribed by "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110. Alternative methods that meet or exceed the method performance capabilities of SW-846 methods may be used. If SW-846 does not prescribe a method for a particular determination, the owner or operator shall use the best available method. The LAC 33:V.Chapter 31, Table 1 constituents excluded from this analysis must be identified and the basis for this exclusion explained. This analysis will be used to provide all information required by this Section and LAC 33:V.535 and 537 and to enable the permit writer to prescribe such permit conditions as are necessary to protect human health and the environment. Such analysis must be included as a portion of Part II of the permit application, or, for facilities operating under the interim status standards of LAC 33:V.3007, as a portion of the trial burn plan that may be submitted before Part II of the application under the provisions of LAC 33:V.537.D, as well as any other analysis required by the permit authority in preparing the permit. Owners or operators of boilers and industrial furnaces not operating under the interim status standards of LAC 33:V.3007 must provide the information required by LAC 33:V.535 and 537 to the greatest extent possible.

* * *

[See Prior Text in B.2-I]

[Note: Parts of this Section were previously promulgated in LAC 33:V.4142, which has been repealed.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:822 (September 1996).

§3007. Interim Status Standards for Burners

* * *

[See Prior Text in A-B.2.b.i]

ii. the estimated partitioning factor to the combustion gas for the materials identified in Subsection B.2.a of this Section and the basis for the estimate and an

estimate of the partitioning to HCl and Cl₂ of total chloride and chlorine in feed materials. To estimate the partitioning factor, the owner or operator must use either best engineering judgment or the procedures specified in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter;

iii. for industrial furnaces that recycle collected particulate matter (PM) back into the furnace and that will certify compliance with the metals emissions standards under Subsection C.3.b.i of this Section, the estimated enrichment factor for each metal. To estimate the enrichment factor, the owner or operator must use either best engineering judgment or the procedures specified in "Alternative Methodology for Implementing Metals Controls" in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter;

* * *

[See Prior Text in B.2.b.iv-d.i]

ii. to estimate APCS removal efficiency, the owner or operator must use either best engineering judgment or the procedures prescribed in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter;

* * *

[See Prior Text in B.2.d.iii-3.e]

4. Operating Requirements for Furnaces that Recycle PM. Owners and operators of furnaces that recycle collected particulate matter (PM) back into the furnace and that will certify compliance with the metals emissions controls under Subsection C.3.b.i of this Section must comply with the special operating requirements provided in "Alternative Methodology for Implementing Metals Controls" in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter.

* * *

[See Prior Text in B.5-6.j]

7. Monitoring Other Operating Parameters. When the monitoring systems for the operating parameters listed in Subsection C.1.e-m of this Section are installed and operating in conformance with vendor specifications or (for CO, HC, and oxygen) specifications provided by 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter, as appropriate, the parameters shall be continuously monitored and records shall be maintained in the operating record.

* * *

[See Prior Text in B.8-C.3.b]

i. the special testing requirements prescribed in "Alternative Method for Implementing Metals Controls" in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter; or

* * *

[See Prior Text in C.3.b.ii-C.4.e]

5. Special Requirements for HC Monitoring Systems. When an owner or operator is required to comply with the hydrocarbon (HC) controls provided by Subsection A.5.a.iv of this Section or LAC 33:V.3009.C, a conditioned gas monitoring system may be used in conformance with specifications provided in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter, provided that the owner or operator submits a certification of compliance without using extensions of time provided by Subsection C.7 of this Section.

* * *

[See Prior Text in C.6]

a. (when complying with the requirements of Subsection C.7 of this Section), comply with the operating requirements prescribed in "Alternative Method to Implement the Metals Controls" in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter; and

* * *

[See Prior Text in C.6.b-J.1.a]

b. carbon monoxide (CO), oxygen, and if applicable, hydrocarbons (HC) must be monitored on a continuous basis at a common point in the boiler or industrial furnace downstream of the combustion zone and prior to release of stack gases to the atmosphere in accordance with the operating limits specified in the certification of compliance. CO, HC and oxygen monitors must be installed, operated, and maintained in accordance with methods specified in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter;

* * *

[See Prior Text in J.1.c-Note]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:822 (September 1996).

§3009. Standards to Control Organic Emissions

A boiler or industrial furnace burning hazardous waste must be designed, constructed, and maintained so that, when operated in accordance with operating requirements specified under LAC 33:V.3005.E, it will meet the following standards:

* * *

[See Prior Text in A-A.2]

3. Dioxin-listed Waste. A boiler or industrial furnace burning hazardous waste containing (or derived from) EPA Hazardous Waste Numbers F020, F021, F022, F023, F026, or F027 must achieve a DRE of 99.9999 percent for each POHC designated (under Subsection A.1.b of this Section) in its permit. This performance must be demonstrated on POHCs that are more difficult to burn than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. The DRE is determined for each POHC from the equation in Subsection A.1 of this Section. In addition, the owner or operator of the boiler or industrial furnace must notify the administrative authority of his intent to burn EPA Hazardous Waste Numbers F020, F021, F022, F023, F026, or F027.

* * *

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

2. CO and oxygen shall be continuously monitored in conformance with "Performance Specifications for Continuous Emission Monitoring of Carbon Monoxide and Oxygen for Incinerators, Boilers, and Industrial Furnaces Burning Hazardous Waste" in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter.

* * *

[See Prior Text in B.3-C.2]

3. HC shall be continuously monitored in conformance with "Performance Specifications for Continuous Emission Monitoring of Hydrocarbons for Incinerators, Boilers, and Industrial Furnaces Burning Hazardous Waste" in 40 CFR

266, Appendix IX, as adopted and amended at Appendix I of this Chapter. CO and oxygen shall be continuously monitored in conformance with Subsection B.2 of this Section.

* * *

[See Prior Text in C.4-E]

1. during the trial burn (for new facilities or an interim status facility applying for a permit) or compliance test (for interim status facilities), determine emission rates of the tetra-octa congeners of chlorinated dibenzo-p-dioxins and dibenzofurans (CDDs/CDFs) using Method 23, "Determination of Polychlorinated Dibenzo-p-Dioxins (PCDDs) and Polychlorinated Dibenzofurans (PCDFs) from Stationary Sources," in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter;

2. estimate the 2,3,7,8-TCDD toxicity equivalence of the tetra-octa CDD/CDF congeners using "Procedures for Estimating the Toxicity Equivalence of Chlorinated Dibenzo-p-Dioxin and Dibenzofuran Congeners" in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter. Multiply the emission rates of CDD/CDF congeners with a toxicity equivalence greater than zero (see the procedure) by the calculated toxicity equivalence factor to estimate the equivalent emission rate of 2,3,7,8-TCDD;

3. conduct dispersion modeling using methods recommended in 40 CFR 51, Appendix W ("Guideline on Air Quality Models (Revised)" and its supplements), the "Hazardous Waste Combustion Air Quality Screening Procedure" provided in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter, or in "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," as incorporated by reference at LAC 33:V.110, to predict the maximum annual average off-site ground level concentration of 2,3,7,8-TCDD equivalents determined under Subsection E.2 of this Section. The maximum annual average concentration must be used when a person resides on-site; and

4. the ratio of the predicted maximum annual average ground level concentration of 2,3,7,8-TCDD equivalents to the risk-specific dose for 2,3,7,8-TCDD provided in 40 CFR 266, Appendix V, as adopted at Appendix E of this Chapter, (2.2×10^{-7}) shall not exceed 1.0.

F. Reserved

* * *

[See Prior Text in G-I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:823 (September 1996).

§3011. Standards to Control Particulate Matter

A. A boiler or industrial furnace burning hazardous waste may not emit particulate matter in excess of 180 milligrams per dry standard cubic meter (0.08 grains per dry standard cubic foot) after correction to a stack gas concentration of seven percent oxygen, using procedures prescribed in 40 CFR 60, Appendix A, Methods 1-5, and 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter.

* * *

[See Prior Text in B-C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), LR 22:823 (September 1996).

§3013. Standards to Control Metals Emissions

A. General. The owner or operator must comply with the metals standards provided by Subsections B-F of this Section for each metal listed in Subsection B of this Section that is present in hazardous waste at detectable levels using analytical procedures specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

B. Tier I Feed Rate Screening Limits. Feed rate screening limits for metals are specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter, as a function of terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. Criteria for facilities that are not eligible to comply with the screening limits are provided in Subsection B.7 of this Section.

1. Noncarcinogenic Metals. The feed rates of antimony, barium, lead, mercury, thallium, and silver in all feedstreams, including hazardous waste, fuels, and industrial furnace feedstocks shall not exceed the screening limits specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter.

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

a. The feed rates of arsenic, cadmium, beryllium, and chromium in all feedstreams, including hazardous waste, fuels, and industrial furnace feedstocks shall not exceed values derived from the screening limits specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter. The feed rate of each of these metals is limited to a level such that the sum of the ratios of the actual feed rate to the feed rate screening limit specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter, shall not exceed 1.0, as provided by the following equation:

$$\sum_{i=1}^n \frac{AFR_{(i)}}{FRSL_{(i)}} \leq 1.0$$

where:

n = number of carcinogenic metals

AFR = actual feed rate to the device for metal "i"

FRSL = feed rate screening limit provided by 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter, for metal "i"

[See Prior Text in B.2.b-3]

a. the terrain-adjusted effective stack height (TESH) is determined according to the following equation:

$$TESH = Ha + H1 - Tr$$

where:

Ha = actual physical stack height

H1 = plume rise as determined from 40 CFR 266, Appendix VI, as adopted at Appendix F of this Chapter, as a function of stack flow rate and stack gas exhaust temperature

Tr = terrain rise within five kilometers of the stack

[See Prior Text in B.3.b-4]

5. Land Use. The screening limits are a function of whether the facility is located in an area where the land use is urban or rural. To determine whether land use in the vicinity of the facility is urban or rural, use procedures provided in 40 CFR 266, appendices IX or X, as adopted and amended at Appendices I or J of this Chapter.

[See Prior Text in B.6-8]

C. Tier II Emission Rate Screening Limits. Emission rate screening limits are specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter, as a function of terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. Criteria for facilities that are not eligible to comply with the screening limits are provided in Subsection B.7 of this Section.

1. Noncarcinogenic Metals. The emission rates of antimony, barium, lead, mercury, thallium, and silver shall not exceed the screening limits specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter.

2. Carcinogenic Metals. The emission rates of arsenic, cadmium, beryllium, and chromium shall not exceed values derived from the screening limits specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter. The emission rate of each of these metals is limited to a level such that the sum of the ratios of the actual emission rate to the emission rate screening limit specified in 40 CFR 266,

$$\sum_{i=1}^n \frac{AER_{(i)}}{ERSL_{(i)}} \leq 1.0$$

Appendix I, as adopted at Appendix A of this Chapter, shall not exceed 1.0, as provided by the following equation:

where:

n = number of carcinogenic metals

AER = actual emission rate for metal "i"

ERSL = emission rate screening limit provided by 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter, for metal "i"

[See Prior Text in C.3-D.1]

2. Acceptable Ambient Levels. 40 CFR 266, appendices IV and V, as adopted and amended at Appendices D and E of this Chapter, list the acceptable ambient levels for purposes of this rule. Reference air concentrations (RACs) are listed for the noncarcinogenic metals and 10⁻⁵ risk-specific doses (RSDs) are listed for the carcinogenic metals. The RSD for a metal is the acceptable ambient level for that metal

provided that only one of the four carcinogenic metals is emitted. If more than one carcinogenic metal is emitted, the acceptable ambient level for the carcinogenic metals is a fraction of the RSD as described in Subsection D.3 of this Section.

* * *

[See Prior Text in D.3-6]

E. Adjusted Tier I Feed Rate Screening Limits. The owner or operator may adjust the feed rate screening limits provided by 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter, to account for site-specific dispersion modeling. Under this approach, the adjusted feed rate screening limit for a metal is determined by back-calculating from the acceptable ambient levels provided by 40 CFR 266, appendices IV and V, as adopted and amended at Appendices D and E of this Chapter, using dispersion modeling to determine the maximum allowable emission rate. This emission rate becomes the adjusted Tier I feed rate screening limit. The feed rate screening limits for carcinogenic metals are implemented as prescribed in Subsection B.2 of this Section.

* * *

[See Prior Text in F-F.2]

a. for each noncarcinogenic metal, by back-calculating from the RAC provided in 40 CFR 266, Appendix IV, as adopted and amended at Appendix D of this Chapter, to determine the allowable emission rate for each metal using the dilution factor for the maximum annual average ground level concentration predicted by dispersion modeling in conformance with Subsection H of this Section; and

b. for each carcinogenic metal, by:

i. back-calculating from the RSD provided in 40 CFR 266, Appendix V, as adopted at Appendix E of this Chapter, to determine the allowable emission rate for each metal if that metal were the only carcinogenic metal emitted using the dilution factor for the maximum annual average ground level concentration predicted by dispersion modeling in conformance with Subsection H of this Section; and

* * *

[See Prior Text in F.2.b.ii-G]

1. General. Emission testing for metals shall be conducted using the Multiple Metals Train as described in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter.

2. Hexavalent Chromium. Emissions of chromium are assumed to be hexavalent chromium unless the owner or operator conducts emissions testing to determine hexavalent chromium emissions using procedures prescribed in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter.

H. Dispersion Modeling. Dispersion modeling required under this Section shall be conducted according to methods recommended in 40 CFR 51, Appendix W ("Guidelines on Air Quality Models (revised)" (1986) and its supplements), the "Hazardous Waste Combustion Air Quality Screening Procedure" described in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter, or in

"Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," as incorporated by reference at LAC 33:V.110, to predict the maximum annual average off-site ground level concentration. However, on-site concentrations must be considered when a person resides on-site.

* * *

[See Prior Text in I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:824 (September 1996).

§3015. Standards to Control Hydrogen Chloride (HCl) and Chlorine Gas (Cl₂) Emissions

* * *

[See Prior Text in A-B]

1. Tier I Feed Rate Screening Limits. Feed rate screening limits are specified for total chlorine in 40 CFR 266, Appendix II, as adopted at Appendix B of this Chapter, as a function of terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. The feed rate of total chlorine and chloride, both organic and inorganic, in all feedstreams, including hazardous waste, fuels, and industrial furnace feedstocks shall not exceed the levels specified.

2. Tier II Emission Rate Screening Limits. Emission rate screening limits for HCl and Cl₂ are specified in 40 CFR 266, Appendix III, as adopted at Appendix C of this Chapter, as a function of terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. The stack emission rates of HCl and Cl₂ shall not exceed the levels specified.

* * *

[See Prior Text in B.3-C.1]

2. Acceptable Ambient Levels. 40 CFR 266, Appendix IV, as adopted and amended at Appendix D of this Chapter, lists the reference air concentrations (RACs) for HCl (seven micrograms per cubic meter) and Cl₂ (0.4 micrograms per cubic meter).

* * *

[See Prior Text in C.3-D.2]

E. Adjusted Tier I Feed Rate Screening Limits. The owner or operator may adjust the feed rate screening limit provided by 40 CFR 266, Appendix II, as adopted at Appendix B of this Chapter, to account for site-specific dispersion modeling. Under this approach, the adjusted feed rate screening limit is determined by back-calculating from the acceptable ambient level for Cl₂ provided by 40 CFR 266, Appendix IV, as adopted and amended at Appendix D of this Chapter, using dispersion modeling to determine the maximum allowable emission rate. This emission rate becomes the adjusted Tier I feed rate screening limit.

F. Emissions Testing. Emissions testing for HCl and Cl₂ shall be conducted using the procedures described in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter.

* * *

[See Prior Text in G-H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:825 (September 1996).

§3019. Low Risk Waste Exemption

* * *

[See Prior Text in A-A.2.d]

i. for the noncarcinogenic compounds listed in 40 CFR 266, Appendix IV, as adopted and amended at Appendix D of this Chapter, the levels established in 40 CFR 266, Appendix IV, as adopted and amended at Appendix D of this Chapter;

ii. for the carcinogenic compounds listed in 40 CFR 266, Appendix V, as adopted at Appendix E of this Chapter, the sum for all constituents of the ratios of the actual ground level concentration to the level established in 40 CFR 266, Appendix V, as adopted at Appendix E of this Chapter, cannot exceed 1.0; and

iii. for constituents not listed in 40 CFR 266, appendices IV or V, as adopted and amended at Appendices D and E of this Chapter, 0.1 micrograms per cubic meter.

* * *

[See Prior Text in B-B.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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:826 (September 1996).

§3023. Standards for Direct Transfer

* * *

[See Prior Text in A-D.1]

2. The use and management requirements of LAC 33:V.Chapter 43.Subpart I, except for LAC 33:V.4417 and 4425 except that, in lieu of the special requirements of LAC 33:V.4427 for ignitable or reactive waste, the owner or operator may comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjacent property line that can be built upon as required in Tables 2-1-2-6 of the National Fire Protection Association's (NFPA) "Flammable and Combustible Liquids Code," (1977 or 1981), as incorporated by reference at LAC 33:V.110. The owner or operator must obtain and keep on file at the facility a written certification by the local fire marshall that the installation meets the subject NFPA codes; and

* * *

[See Prior Text in D.3-E.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:826 (September 1996).

§3025. Regulation of Residues

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

33:V.105.D unless the device and the owner or operator meet the following requirements:

* * *

[See Prior Text in A-B]

1. Comparison of Waste-derived Residue with Normal Residue. The waste-derived residue must not contain LAC 33:V.4901.G.Table 6 constituents (toxic constituents) that could reasonably be attributable to the hazardous waste at concentrations significantly higher than in residue generated without burning or processing of hazardous waste, using the following procedure. Toxic compounds that could reasonably be attributable to burning or processing the hazardous waste (constituents of concern) include toxic constituents in the hazardous waste, and the organic compounds listed in 40 CFR 266, Appendix VIII, as adopted at Appendix H of this Chapter, that may be generated as products of incomplete combustion. Sampling and analyses shall be in conformance with procedures prescribed in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

a. Normal Residue. Concentrations of toxic constituents of concern in normal residue shall be determined based on analyses of a minimum of 10 samples representing a minimum of 10 days of operation. Composite samples may be used to develop a sample for analysis provided that the compositing period does not exceed 24 hours. The upper tolerance limit (at 95-percent confidence with a 95-percent proportion of the sample distribution) of the concentration in the normal residue shall be considered the statistically-derived concentration in the normal residue. If changes in raw materials or fuels reduce the statistically-derived concentrations of the toxic constituents of concern in the normal residue, the statistically-derived concentrations must be revised or statistically-derived concentrations of toxic constituents in normal residue must be established for a new mode of operation with the new raw material or fuel. To determine the upper tolerance limit in the normal residue, the owner or operator shall use statistical procedures prescribed in "Statistical Methodology for Beville Residue Determinations" in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter;

* * *

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

a. Nonmetal Constituents. The concentration of each nonmetal toxic constituent of concern (specified in Subsection B of this Section) in the waste-derived residue must not exceed the health-based level specified in 40 CFR 266, Appendix VII, as adopted and amended at Appendix G of this Chapter, or the level of detection (using analytical procedures prescribed in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110), whichever is higher. If a health-based limit for a constituent of concern is not listed in 40 CFR 266, Appendix VII, as adopted and amended at Appendix G of this Chapter, then a limit of 0.002 micrograms per kilogram or the level of detection (using analytical procedures prescribed in SW-846), whichever is higher, shall be used. The levels specified in 40 CFR 266, Appendix VII (and the default level of 0.002 micrograms per kilogram or the level of detection for constituents as identified

in 40 CFR 266, Appendix VII, Note 1, as adopted and amended at Appendix G of this Chapter) are administratively stayed under the condition, for those constituents specified in Subsection B.1 of this Section, that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in LAC 33:V.Chapter 22, Table 2 for F039 nonwastewaters. In complying with those alternative levels, if an owner or operator is unable to detect a constituent despite documenting use of best good-faith efforts, as defined by applicable agency guidance or standards, the owner or operator is deemed to be in compliance for that constituent. Until new guidance or standards are developed, the owner or operator may demonstrate such good-faith efforts by achieving a detection limit for the constituent that does not exceed an order of magnitude above the level provided by LAC 33:V.Chapter 22, Table 2 for F039 nonwastewaters. The stay will remain in effect until further administrative action is taken and notice is published in the *Louisiana Register*; and

b. Metal Constituents. The concentration of metals in an extract obtained using the Toxicity Characteristic Leaching Procedure of LAC 33:V.4903 must not exceed the levels specified in 40 CFR 266, Appendix VII, as adopted and amended at Appendix G of this Chapter.

* * *

[See Prior Text in B.2.c-C.2.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:826 (September 1996).

Appendices to Chapter 30

Appendix A. Tier I and Tier II Feed Rate and Emissions Screening Limits For Metals

40 CFR 266, Appendix I, as amended by 56 FR 7228 (February 21, 1991) and 56 FR 32690 (July 17, 1991), is hereby incorporated by reference.

Appendix B. Tier I Feed Rate Screening Limits for Total Chlorine

40 CFR 266, Appendix II, as amended by 56 FR 32690 (July 17, 1991), is hereby incorporated by reference.

Appendix C. Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride

40 CFR 266, Appendix III, as amended by 56 FR 32691 (July 17, 1991), is hereby incorporated by reference.

Appendix D. Reference Air Concentrations

40 CFR 266, Appendix IV, as amended by 56 FR 7232 (February 21, 1991) and 56 FR 32691 (July 17, 1991), is hereby incorporated by reference, except that in regulations incorporated thereby, references to 40 CFR 261, Appendix VIII and 266, Appendix V shall mean LAC 33:V.3105, Table 1 and Appendix E of this Chapter, respectively.

Appendix E. Risk Specific Doses (10^{-5})

40 CFR 266, Appendix V, as amended by 56 FR 7232 (February 21, 1991), is hereby incorporated by reference.

Appendix F. Stack Plume Rise [Estimated Plume Rise (in Meters) Based on Stack Exit Flow and Gas Temperature]

40 CFR 266, Appendix VI, as amended by 56 FR 7233 (February 21, 1991), is hereby incorporated by reference.

Appendix G. Health-based Limits for Exclusion of Waste-derived Residues

40 CFR 266, Appendix VII, as amended by 56 FR 7234 (February 21, 1991), 56 FR 32691 (July 17, 1991), and 58 FR 59603 (November 9, 1993), is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII, 266.112(b)(1) and (b)(2)(i), and 268.43 shall mean LAC 33:V.3105, Table 1, 3025.B.1 and B.2.a, and Chapter 22, Table 2, respectively.

Appendix H. Potential PICs for Determination of Exclusion of Waste-derived Residues

40 CFR 266, Appendix VIII, as amended by 56 FR 7235 (February 21, 1991) and 56 FR 32691 (July 17, 1991), is hereby incorporated by reference.

Appendix I. Methods Manual for Compliance with the BIF Regulations

40 CFR 266, Appendix IX, as amended by 56 FR 32692 (July 17, 1991), 56 FR 42512, 42516 (August 27, 1991), 57 FR 38566 (August 25, 1992) and 57 FR 44999 (September 30, 1992), is hereby incorporated by reference, except that the citations 40 CFR 261, Appendix VIII, 266.103, 266.103(b), 266.103(b)(3), 266.103(c), 266.103(c)(1), 266.103(c)(3)(ii), 266.103(c)(7), 266.103(d), 266.106, 266.112, 266.112(b)(1) and (b)(2)(i), 268.43, and 266.Subpart H shall mean LAC 33:V.3105, Table 1, 3007, 3007.B, 3007.B.3, 3007.C, 3007.C.1, 3007.C.3.b, 3007.C.7, 3007.D, 3013, 3025, 3013, 3025, 3025.B.1 and B.2.a, Chapter 22, Table 2, and Chapter 30, respectively. Terms within the incorporated Appendix shall be the terms adopted by reference except that "director," "administrator," "EPA regional office," and "EPA regional office or the appropriate enforcement agency" shall mean "administrative authority." "Environmental Protection Agency" and "EPA" shall mean "administrative authority," except when referring to an EPA method, protocol, file, performance audit sample, handbook, manual, document, program, default value, or default assumption.

Federal statutes and regulations that are cited in 40 CFR 266, Appendix IX that are not specifically adopted by reference shall be used as guidance in interpreting the federal regulations in 40 CFR 266, Appendix IX.

Appendix J. Reserved

Appendix K. Lead-bearing Materials That May Be Processed in Exempt Lead Smelters

40 CFR 266, Appendix XI, as amended by 56 FR 42517 (August 27, 1991), is hereby incorporated by reference.

Appendix L. Nickel or Chromium-bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces

40 CFR 266, Appendix XII, as amended by 56 FR 42517 (August 27, 1991), is hereby incorporated by reference, except that the footnote should be deleted.

Appendix M. Mercury-bearing Wastes That May Be Processed in Exempt Mercury Units

40 CFR 266, Appendix XIII, as amended by 59 FR 48041 (September 19, 1994), is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105, Table 1.

Chapter 31. Incinerators

§3115. Incinerator Permits for New or Modified Facilities

* * *

[See Prior Text in A-B.1.b]

c. an identification of any hazardous, organic constituents listed in Table 1 of this Chapter, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Table 1 of this Chapter that would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified, and the basis for their exclusion stated. The waste analysis must rely on analytical techniques as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or other equivalent methods approved by the administrative authority;

d. an approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or other equivalent methods approved by the administrative authority;

* * *

[See Prior Text in B.2-D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 22:828 (September 1996).

Chapter 40. Used Oil

Subchapter A. Materials Regulated as Used Oil

§4003. Applicability

This Section identifies those materials that are subject to regulation as used oil under this Chapter. This Section also identifies some materials that are not subject to regulation as used oil under this Chapter and indicates whether these materials may be subject to regulation as hazardous waste under this Subpart.

* * *

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

b. Rebuttable Presumption for Used Oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in LAC 33:V.4901. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from EPA Publication SW-846, Third Edition, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in LAC 33:V.3105.Table 1). EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, Box 371954, Pittsburgh, PA 15250-7954, (202) 512-1800 (document number 955-001-00000-1).

* * *

[See Prior Text in B.1.b.i-1]

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 21:266 (March 1995), LR 22:828 (September 1996).

§4033. Rebuttable Presumption for Used Oil

* * *

[See Prior Text in A-B.2]

C. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste, which is listed in LAC 33:V.4901. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Third Edition, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents, which are listed in LAC 33:V.3105.Table 1). EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, Box 371954, Pittsburgh, PA 15250-7954. (202) 512-1800 (document number 955-001-00000-1).

* * *

[See Prior Text in C.1-D]

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 21:266 (March 1995), LR 22:828 (September 1996).

§4047. Rebuttable Presumption for Used Oil

* * *

[See Prior Text in A-B.2]

C. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste, which is listed in LAC 33:V.4901. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Third Edition, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents, which are listed in LAC 33:V.3105.Table 1). EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, Box 371954, Pittsburgh, PA 15250-7954. (202) 512-1800 (document number 955-001-00000-1).

* * *

[See Prior Text in C.1-2]

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 21:266 (March 1995), LR 22:828 (September 1996).

§4067. Rebuttable Presumption for Used Oil

* * *

[See Prior Text in A-B.3]

C. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste, which is listed in LAC 33:V.4901. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Third Edition, to show that

the used oil does not contain significant concentrations of halogenated hazardous constituents, which are listed in LAC 33:V.3105.Table 1). EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, Box 371954, Pittsburgh, PA 15250-7954. (202) 512-1800 (document number 955-001-00000-1).

[See Prior Text in C.1-D]

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 21:266 (March 1995), LR 22:828 (September 1996).

Chapter 43. Interim Status
Subchapter E. Groundwater Monitoring
§4371. Sampling and Analysis

[See Prior Text in A-B.1]

2. The following parameters are to be used as a basis for comparison in the event a groundwater quality assessment is required under LAC 33:V.4373.D:

- a. chloride;
- b. iron;
- c. manganese;
- d. phenols;
- e. sodium;
- f. sulfate;

[See Prior Text in B.3-F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 18:1256 (November 1992), LR 22:829 (September 1996).

Subchapter I. Tanks
§4431. Applicability

A. The regulations of this Subchapter apply to owners or operators of facilities that use tank systems for storing or treating hazardous waste, except as otherwise provided in this Section and in LAC 33:V.4433 or in 4301 and 105.F.

1. Tank systems that are used to store or treat hazardous waste that contains no free liquids and that are situated inside a building with an impermeable floor are exempted from the requirements of LAC 33:V.4437. To demonstrate the absence or presence of free liquids in the stored/treated waste, the following test must be used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

[See Prior Text in A.2-3]

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 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 22:829 (September 1996).

Subchapter M. Landfills

§4507. Special Requirements for Liquid Waste

[See Prior Text in A-C.4]

D. To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

[See Prior Text in E-G.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), LR 21:266 (March 1995), LR 22:829 (September 1996).

Chapter 49. Lists of Hazardous Wastes
§4901. Category I Hazardous Wastes

[See Prior Text in A-B.3.b.ii.(c)]

(i). rinses must be tested in accordance with Method 8290, as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110;

(ii). "Not detected" means at or below the lower method calibration limit (MCL) in Method 8290, as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110;

[See Prior Text in B.3.b.ii.(d)-Table 6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790 (November 1988), LR 15:182 (March 1989), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:829 (September 1996).

§4903. Category II Hazardous Wastes

A. Category II hazardous wastes are wastes designated as hazardous based on classical analytical procedures (see "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, for guidance on the procedures). There are four hazardous waste categories for wastes not otherwise characterized: ignitability, corrosivity, reactivity, and toxicity. LAC 33:V.Subpart 1 applies to those materials that exhibit the characteristics of ignitability, corrosivity, reactivity, and/or toxicity.

[See Prior Text in B]

1. It is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume, and has flash point less than 60°C (140°F), as determined by a Pensky-Martens Closed Cup Tester, using the test method

specified in ASTM Standard D-93-79 or D-93-80, as incorporated by reference at LAC 33:V.110, or a Setaflash Closed Cup Tester, using the test method specified in ASTM Standard D-3278-78, as incorporated by reference at LAC 33:V.110, or as determined by an equivalent test method approved by the administrative authority under procedures set forth in LAC 33:V.105.H and I.

* * *

[See Prior Text in B.2-C]

1. It is aqueous and has a pH less than or equal to two or greater than or equal to 12.5, as determined by a pH meter using Method 9040 described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

2. It is a liquid and corrodes steel (SAE 1020) at a rate greater than 6.35 mm (0.250 inch) per year at a test temperature of 55°C (130°F) as determined by the test method specified in National Association of Corrosion Engineers (NACE) Standard TM-01-69 as standardized in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

* * *

[See Prior Text in D-E]

1. A solid waste exhibits the characteristic of toxicity if, using the Toxicity Characteristic Leaching Procedure, Method 1311 described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, the extract from a representative sample of the waste contains any of the contaminants listed in Subsection E.2. Table 5 of this Section at the concentration equal to or greater than the respective value given in that table. Where the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering using the methodology outlined in Method 1311, is considered to be the extract for the purposes of this Section.

* * *

[See Prior Text in E.2-F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 22:829 (September 1996).

Appendices to Chapter 49

Appendix A. Chemical Analysis Test Methods

Note: Appropriate analytical procedures to determine whether a sample contains a given toxic constituent are specified in Chapter Two, "Choosing the Correct Procedure," found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110. Prior to final sampling and analysis method selection, the individual should consult the specific section or method described in SW-846, for additional guidance on which of the approved methods should be employed for a specific sample analysis situation.

Appendix B. Method 1311

Toxicity Characteristic Leaching Procedure (TCLP)

Note: The TCLP (Method 1311) is published in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

Appendix C. Extraction Procedure (EP) Toxicity Test Method and Structural Integrity Test (Method 1310)

Note: The EP (Method 1310) is published in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

Mike Strong
Assistant Secretary

9609#021

RULE

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

RCRA IV Authorization Federal Package
(LAC 33:V.Chapters 1, 5, 15, 22, 30, 31,
37, 40, 41, 43, and 49)(HW050)

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 Hazardous Waste Division Regulations, LAC 33:V.Chapters 1, 5, 15, 22, 30, 31, 37, 40, 41, 43, and 49 (HW050).

This rule makes the following changes: 1) references are changed from 40 CFR 266 appendices to 40 CFR 51 to ensure that BIF Air Quality Screening Procedures are consistent, 2) allows BIF residues to meet LDR standards instead of more stringent health-based constituent levels to avoid disposal as a hazardous waste, 3) lists constituents found in wood surface protection wastes, 4) expands exemption for samples used in treatability studies by quantity and toxicity, 5) amends recordkeeping instructions for BIFs, Miscellaneous Units, and TSDs so that the unit of measurement codes and handling codes used by TSDs for on-site records match codes used by facilities on the Part A permit application forms, and 6) excludes from the definition of solid waste oil recovered from petroleum refinery wastewaters and from other sources, both on-site and off-site, if the oil is subsequently inserted (along with normal process streams) into the petroleum refining process prior to crude distillation or catalytic cracking.

These revisions are being made to maintain authorization from the Environmental Protection Agency to manage the Hazardous Waste Program. These revisions will also provide consistency between the state regulations and the federal regulations.

This rule is identical to a federal law or regulation which is applicable in Louisiana, therefore, no fiscal or economic

impact will result from the proposed rule. The rule is being promulgated in accordance with R.S. 49:953(F)(3) and (4).

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including "solid waste" and "hazardous waste", appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

* * *

[See Prior Text in A-D.33.a]

b. waste from burning any of the materials in LAC 33:V.4105.B.10-12;

* * *

[See Prior Text in D.33.c-37.b]

i. The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with nonacute hazardous waste, 1,000 kg of nonacute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, or 2,500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream.

ii. The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with nonacute hazardous waste, or may include 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of hazardous waste, and 1 kg of acute hazardous waste.

* * *

[See Prior Text in D.37.b.iii-vi]

c. The administrative authority may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The administrative authority may grant requests on a case-by-case basis for quantity limits in excess of those specified in Subsection D.37.b.i of this Section for up to an additional 5,000 kg of media contaminated with nonacute hazardous waste, 500 kg of nonacute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste and 1 kg of acute hazardous waste:

i. in response to requests for authorization to ship, store, and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), the size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations;

ii. in response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies when: there has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of a previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an on-going treatability study to determine final specifications for treatment;

iii. The additional quantities and time frames allowed in Subsection D.37.c.i and ii of this Section are subject to all the provisions in Subsection D.37.a and b.iii and vi of this Section. The generator or sample collector must apply to the administrative authority and provide in writing the following information:

(a). the reason why the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;

(b). documentation accounting for all samples of hazardous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;

(c). a description of the technical modifications or change in specifications that will be evaluated and the expected results;

(d). if such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(e). such other information that the administrative authority considers necessary.

* * *

[See Prior Text in D.38-38.b]

c. No more than a total of 10,000 kg of "as received" media contaminated with nonacute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other "as received" hazardous waste is subjected to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

d. The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which may include 10,000 kg of media contaminated with nonacute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of nonacute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including nonhazardous solid waste) added to "as received" hazardous waste.

e. No more than 90 days have elapsed since the treatability study for the sample was completed, or no more

than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

* * *

[See Prior Text in D.38.f-43.d]

e. material subjected on in-situ mining techniques which are not removed from the ground as part of the extraction process;

f. nonwastewater splash condenser dross residue from the treatment of K061 in high-temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery; and

g. recovered oil from petroleum refining, exploration and production, and from transportation incident thereto, which is to be inserted into the petroleum refining process (SIC Code 2911) along with normal process streams prior to crude distillation or catalytic cracking. This exclusion applies to recovered oil stored or transported prior to insertion, except that the oil must not be stored in a manner involving placement on the land, and must not be accumulated speculatively, before being so recycled. Recovered oil is oil that has been reclaimed from secondary materials (such as wastewater) generated from normal petroleum refining, exploration and production, and transportation practices. Recovered oil includes oil that is recovered from refinery wastewater collection and treatment systems, oil recovered from oil and gas drilling operations, and oil recovered from wastes removed from crude oil storage tanks. Recovered oil does not include (among other things) oil-bearing hazardous wastes listed in LAC 33:V.4901 (e.g., K048-K052, F037, F038). However, oil recovered from such wastes may be considered recovered oil. Recovered oil also does not include used oil as defined in LAC 33:V.4001.

* * *

[See Prior Text in D.44-M.10]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:831 (September 1996).

Chapter 5. Permit Application Contents
Subchapter F. Special Forms of Permits

§537. Permits for Boiler and Industrial Furnaces Burning Hazardous Waste for Recycling Purposes Only (boilers and industrial furnaces burning hazardous waste for destruction are subject to permit requirements for incinerators)

* * *

[See Prior Text in A-B.3.b]

4. Final Permit. For the final period of operation, the administrative authority will develop operating requirements in conformance with LAC 33:V.3005.E that reflect conditions in the trial burn plan and are likely to ensure compliance with the performance standards of LAC 33:V.3009-3015. Based on the trial burn results, the administrative authority will modify the permit as necessary to ensure compliance with the performance standards of LAC 33:V.3009-3015. The permit modification shall proceed according to LAC 33:V.321.

* * *

[See Prior Text in C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:832 (September 1996).

Chapter 15. Treatment, Storage, and Disposal Facilities
§1529. Operating Record and Reporting Requirements

* * *

[See Prior Text in A-B.2]

3. Record the estimated or manifest-reported weight, or volume and density, where applicable, in one of the units of measure specified in Table 1.

Table 1. Units For Reporting	
Units of Measure	Code ¹
Gallons	G
Gallons per hour	E
Gallons per Day	U
Liters	L
Liters per Hour	H
Liters per Day	V
Short Tons per Hour	D
Metric Tons per Hour	W
Short Tons per Day	N
Metric Tons per Day	S
Pounds per Hour	J
Kilograms per Hour	R
Cubic Yards	Y
Cubic Meters	C
Acres	B
Acre-feet	A
Hectares	Q
Hectare-meter	F

Btu's per Hour	I
¹ Single digit symbols are used here for data processing purposes.	

4. The method(s) (by handling code(s) as specified in Table 2) and date(s) of treatment, storage, or disposal.

Table 2. Handling Codes for Treatment, Storage, and Disposal Methods
Enter the handling code(s) listed below that most closely represents the technique(s) used at the facility to treat, store, or dispose of each quantity of hazardous waste received.
Storage
S01 Container (barrel, drum, etc.)
S02 Tank
S03 Waste Pile
S04 Surface Impoundment
S05 Drip Pad
S06 Containment Building (Storage)
S99 Other Storage (specify)
Treatment
Thermal Treatment
T06 Liquid injection incinerator
T07 Rotary kiln incinerator
T08 Fluidized bed incinerator
T09 Multiple hearth incinerator
T10 Infrared furnace incinerator
T11 Molten salt destructor
T12 Pyrolysis
T13 Wet air oxidation
T14 Calcination
T15 Microwave discharge
T18 Other (specify)
Chemical Treatment
T19 Absorption mound
T20 Absorption field
T21 Chemical fixation
T22 Chemical oxidation
T23 Chemical precipitation
T24 Chemical reduction
T25 Chlorination
T26 Chlorinolysis
T27 Cyanide destruction

T28 Degradation
T29 Detoxification
T30 Ion exchange
T31 Neutralization
T32 Ozonation
T33 Photolysis
T34 Other (specify)
Physical Treatment
Separation of Components:
T35 Centrifugation
T36 Clarification
T37 Coagulation
T38 Decanting
T39 Encapsulation
T40 Filtration
T41 Flocculation
T42 Flotation
T43 Foaming
T44 Sedimentation
T45 Thickening
T46 Ultrafiltration
T47 Other (specify)
Removal of Specific Components:
T48 Absorption-molecular sieve
T49 Activated carbon
T50 Blending
T51 Catalysis
T52 Crystallization
T53 Dialysis
T54 Distillation
T55 Electrodialysis
T56 Electrolysis
T57 Evaporation
T58 High gradient magnetic separation
T59 Leaching
T60 Liquid ion exchange
T61 Liquid-liquid extraction
T62 Reverse osmosis
T63 Solvent recovery
T64 Stripping

T65 Sand filter
T66 Other (specify)
Biological Treatment
T67 Activated sludge
T68 Aerobic lagoon
T69 Aerobic tank
T70 Anaerobic tank
T71 Composting
T72 Septic tank
T73 Spray irrigation
T74 Thickening filter
T75 Tricking filter
T76 Waste stabilization pond
T77 Other (specify)
T78 [Reserved]
T79 [Reserved]
Boilers and Industrial Furnaces
T80 Boiler
T81 Cement Kiln
T82 Lime Kiln
T83 Aggregate Kiln
T84 Phosphate Kiln
T85 Coke Oven
T86 Blast Furnace
T87 Smelting, Melting, or Refining Furnace
T88 Titanium Dioxide Chloride Process Oxidation Reactor
T89 Methane Reforming Furnace
T90 Pulping Liquor Recovery Furnace
T91 Combustion Device Used in the Recovery of Sulfur Values from Spent Sulfuric Acid
T92 Halogen Acid Furnaces
T93 Other Industrial Furnaces Listed in LAC 33:V.109 (specify)
Other Treatment
T94 Containment Building (Treatment)
Disposal
D79 Underground Injection
D80 Landfill
D81 Land Treatment
D82 Ocean Disposal
D83 Surface Impoundment (to be closed as a landfill)
D99 Other Disposal (specify)

Miscellaneous (Chapter 32)
X01 Open Burning/Open Detonation
X02 Mechanical Processing
X03 Thermal Unit
X04 Geologic Repository
X99 Other Chapter 32 (specify)

[See Prior Text in B.5-E.3]

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 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:832 (September 1996).

2. Prohibitions on Land Disposal

Appendix
Table 2. Treatment Standards for Hazardous Wastes

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common Name	CAS ² Number	Concentration mg/l ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/l TCLP" or Technology Code

[See Prior Text in D001-P014]					
P015	Beryllium Powder	Beryllium	7440-41-7	RMETL; or RTHRM	RMETL; or RTHRM

[See Prior Text in P016-U359]					

¹ The waste descriptions provided in this table do not replace waste descriptions in LAC 33:V.Chapter 49. Descriptions of Treatment/Regulatory Subcategories are provided, as needed, to distinguish between applicability of different standards.

² CAS means Chemical Abstract Services. When the waste code and/or regulated constituents are described as a combination of a chemical with its salts and/or esters, the CAS number is given for the parent compound only.

³ Concentration standards for wastewaters are expressed in mg/l and are based on analysis of composite samples.

⁴ All treatment standards expressed as a Technology Code or combination of Technology Codes are explained in detail in LAC 33:V.Chapter 22, Appendices, Table 3. Technology Codes and Descriptions of Technology-Based Standards.

⁵ Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of LAC 33:V.Chapter 31, LAC 33:V.Chapter 43.Subpart N, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in LAC 33:V.2223.E. All concentration standards for nonwastewaters are based on analysis of grab samples.

⁶ Where an alternate treatment standard or set of alternate standards has been indicated, a facility may comply with this alternate standard, but only for the Treatment/Regulatory Subcategory or physical form (i.e., wastewater and/or nonwastewater) specified for that alternate standard.

⁷ Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010 or 9012, found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

Note: NA means not applicable.

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3001. Applicability

* * *

[See Prior Text in A-B.2]

3. hazardous wastes that are exempt from regulation under LAC 33:V.105.D and 4105.B.10-12, and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators under LAC 33:V.Chapter 39; and

* * *

[See Prior Text in B.4-F.1.c]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:835 (September 1996).

Chapter 31. Incinerators

§3105. Applicability

* * *

[See Prior Text in A-E]

Table 1. Hazardous Constituents			
Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
* * * [See Prior Text in Acetonitrile-Benzyl Chloride]			
Beryllium Powder	Same	7440-41-7	P015
* * * [See Prior Text in Beryllium compounds, N.O.S. ¹ -Potassium cyanide]			
Potassium pentachlorophenate	Pentachlorophenol, potassium salt	7778736	None
* * * [See Prior Text in Potassium silver cyanide-Sodium cyanide]			
Sodium pentachlorophenate	Pentachlorophenol, sodium salt	131522	None
* * * [See Prior Text in Streptozotocin-2,3,4,6-Tetrachlorophenol]			
2,3,4,6-Tetrachlorophenol, potassium salt	same	53535276	None
2,3,4,6-Tetrachlorophenol, sodium salt	same	25567559	None
* * * [See Prior Text in Tetraethyldithiopyrophosphate-Zinc phosphide]			

¹ The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this table.

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 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR

20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996).

§3115. Incinerator Permits for New or Modified Facilities

* * *

[See Prior Text in A-B.11.d]

12. during, or immediately after, each approved trial burn the applicant must make the following determinations when a DRE trial burn is required under LAC 33:V.3009.A:

a. a quantitative analysis of the trial POHCs in the waste feed;

* * *

[See Prior Text in B.12.b-D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 22:835 (September 1996).

Chapter 37. Financial Requirements

Subchapter F. Financial and Insurance Instruments

§3719. Wording of the Instruments

* * *

[See Prior Text in A-C]

D. Letter of Credit. A letter of credit, as specified in LAC 33:V.3707.D or 3711.D or 4403.C or 4407.C must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

IRREVOCABLE STANDBY LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
P.O. Box 82263
Baton Rouge, LA 70884-2263
Dear [Sir or Madam]:

We hereby establish our Irrevocable Standby Letter of Credit Number _____ in favor of the Department of Environmental Quality of the State of Louisiana at the request and for the account of [owner's or operator's name and address] up to the aggregate amount of U.S. dollars \$ _____ upon presentation of:

1. a sight draft, bearing reference to the Letter of Credit Number ___ drawn by the Secretary or his or her designated representative, together with;
2. a statement signed by the Secretary or his or her designated representative, reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq."

This Letter of Credit is effective as of _____, 19____, and shall expire on _____, 19____ [date at least one year later], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [_____, 19____] and on each successive expiration date thereafter, unless, at least 120 days before the then current expiration date, we notify both you and [name of owner/operator] by certified mail that we have decided not to extend this Letter of Credit beyond the then current expiration date. In the event we give such notification, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and [name of owner/operator], as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of owner/operator] in accordance with your instructions.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:V.3719.D as such regulations were constituted on the date shown immediately below.

[Signature(s) and Titles of Official(s) of issuing institutions]

[DATE]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted

by the International Chamber of Commerce," or "the Uniform Commercial Code"].

* * *

[See Prior Text in E-J.2.e]

K. Letter of Credit. A letter of credit, as specified in LAC 33:V.3715 or 4411, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

IRREVOCABLE STANDBY LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
P.O. Box 82263
Baton Rouge, Louisiana 70884-2263
Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit Number _____ in the favor of ["any and all third-party liability claimants" or insert name of trustee of the standby trust fund], at the request and for the account of [owner or operator's name and address] for third-party liability awards or settlements up to [in words] U.S. dollars \$ _____ per occurrence and the annual aggregate amount of [in words] U.S. dollars, for sudden accidental occurrences and/or for third-party liability awards or settlements up to the amount of [in words] U.S. dollars \$ _____ per occurrence, and the annual aggregate amount of [in words] U.S. dollars \$ _____ for nonsudden accidental occurrences available upon presentation of a sight draft bearing reference to this Letter of Credit Number _____, and [insert the following language if the letter of credit is being used without a standby trust fund:]

* * *

[See Prior Text in K.1-1.c.ii.(a)]

(b). to any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in Subsection K.1.c.i or ii of this Section.

* * *

[See Prior Text in K.1.d-e.v]

2. Or, as an alternative to the Certificate of Valid Claim, a valid final court order establishing a judgment against the Grantor for bodily injury or property damage caused by sudden or nonsudden accidental occurrences arising from the operation of the Grantor's facility or group of facilities.

This Letter of Credit is effective as of [date] and shall expire on [date at least one year later], but such expiration date shall be automatically extended for a period of [at least one year] on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify you, the administrative authority, and [owner's or operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date.

Whenever this Letter of Credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us.

[Insert the following language if a standby trust fund is not being used: "In the event that this letter of credit is used in combination with another mechanism for liability coverage, this letter of credit shall be considered [insert "primary" or "excess" coverage]."

We certify that the wording of this letter of credit is identical to the wording specified in LAC 33:V.3719.K as such regulations were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution [Date]]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits published and copyrighted by the International Chamber of Commerce" or "the Uniform Commercial Code"].

* * *

[See Prior Text in L-N.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:686 (July 1985), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:47 (January 1990), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:835 (September 1996).

Chapter 40. Used Oil

§4001. Definitions

Terms that are defined in LAC 33:V.109 have the same meanings when used in this Chapter.

* * *

[See Prior Text]

Petroleum Refining Facility—an establishment primarily engaged in producing gasoline, kerosine, distillate fuel oils, residual fuel oils, and lubricants, through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other processes (i.e., facilities classified as SIC 2911).

* * *

[See Prior Text]

Used Oil Transfer Facility—any transportation-related facility, including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours and not longer than 35 days during the normal course of transportation or prior to an activity performed in accordance with LAC 33:V.4009.B.2. Transfer facilities that store used oil for more than 35 days are subject to regulation under Subchapter E of this Chapter.

* * *

[See Prior Text]

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 21:266 (March 1995), amended LR 22:836 (September 1996).

Subchapter A. Materials Regulated as Used Oil

§4003. Applicability

This Section identifies those materials which are subject to regulation as used oil under this Chapter. This Section also identifies some materials that are not subject to regulation as used oil under this Chapter and indicates whether these materials may be subject to regulation as hazardous waste under this Subpart.

* * *

[See Prior Text in A-B.2.b]

c. regulation as used oil under this Chapter if the mixture is of used oil and a waste which is hazardous solely because it exhibits the characteristic of ignitability (e.g., ignitable-only mineral spirits), provided that the resulting mixture does not exhibit the characteristic of ignitability under LAC 33:V.4903.

* * *

[See Prior Text in C-F]

G. Used Oil Introduced into Crude Oil Pipelines or a Petroleum Refining Facility

* * *

[See Prior Text in G.1-I]

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 21:266 (March 1995), amended LR 22:836 (September 1996).

Subchapter B. Standards for Used Oil Generators

§4009. Applicability

* * *

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

b. separating used oil from wastewater generated on-site to make the wastewater acceptable for discharge or reuse pursuant to section 402 or section 307(b) of the Clean Water Act, LAC 33:IX, or other applicable federal or state regulations governing the management or discharge of wastewater;

[See Prior Text in B.2.c-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 21:266 (March 1995), amended LR 22:837 (September 1996).

Chapter 41. Recyclable Materials

§4105. Requirements for Recyclable Materials

Recyclable materials are subject to additional regulations as follows:

[See Prior Text in A-B.7]

8. fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining production, and transportation practices (this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste, where such recovered oil is already excluded under LAC 33:V.105.D.43.g);

9. hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such hazardous wastes, where such hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under LAC 33:V.4005 of this Chapter and so long as no other hazardous wastes are used to produce the hazardous waste fuel;

10. hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining production, and transportation practices, where such hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under LAC 33:V.4005;

11. oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under LAC 33:V.4005;

12. petroleum coke produced from petroleum refinery hazardous wastes containing oil at the same facility by the same person who generated the waste, unless the resulting coke product exceeds one or more of the characteristics of hazardous waste in LAC 33:V.4903;

13. wastes described in Subsection B.1-13 of this Section, which are used or reused on-site or stored at the generation site prior to such use or reuse on-site are exempt from these regulations except that on-site storage shall be in an environmentally sound manner.

[See Prior Text in C-E]

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 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:219 (March 1990), LR 17:362 (April 1991), repromulgated LR 18:1256 (November 1992), amended LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996).

Chapter 43. Interim Status
§4357. Operating Record

[See Prior Text in A]

B. Records of each hazardous waste received, treated, stored, or disposed of at the facility must be recorded, as they become available, and maintained in the operating record until closure of the facility. These records shall include the following information:

1. a description by its common name and the EPA hazardous waste number(s) (LAC 33:V.Chapter 49) that apply to the waste and the quantity of each hazardous waste received. The waste description also must include the waste's physical form, i.e., liquid, sludge, solid, or contained gas. If the waste is not listed in LAC 33:V.Chapter 49, the description also must include the process that produced it.

[See Prior Text in B.2]

3. the estimated or manifest-reported weight, or volume and density, where applicable, in one of the units of measure specified in Table 1;

Table 1. Units For Reporting	
Units of Measure	Code ¹
Gallons	G
Gallons per hour	E
Gallons per Day	U
Liters	L
Liters per Hour	H
Liters per Day	V
Short Tons per Hour	D
Metric Tons per Hour	W
Short Tons per Day	N
Metric Tons per Day	S
Pounds per Hour	J
Kilograms per Hour	R
Cubic Yards	Y
Cubic Meters	C
Acres	B
Acre-feet	A
Hectares	Q

Hectare-meter	F
Btu's per Hour	I
¹ Single digit symbols are used here for data processing purposes.	

4. the method(s) (by handling code(s) as specified in Table 2) and date(s) of treatment, storage, or disposal;

Table 2. Handling Codes for Treatment, Storage, and Disposal Methods
Enter the handling code(s) listed below that most closely represents the technique(s) used at the facility to treat, store, or dispose of each quantity of hazardous waste received.
Storage
S01 Container (barrel, drum, etc.)
S02 Tank
S03 Waste Pile
S04 Surface Impoundment
S05 Drip Pad
S06 Containment Building (Storage)
S99 Other Storage (specify)
Treatment
Thermal Treatment
T06 Liquid injection incinerator
T07 Rotary kiln incinerator
T08 Fluidized bed incinerator
T09 Multiple hearth incinerator
T10 Infrared furnace incinerator
T11 Molten salt destructor
T12 Pyrolysis
T13 Wet air oxidation
T14 Calcination
T15 Microwave discharge
T18 Other (specify)
Chemical Treatment
T19 Absorption mound
T20 Absorption field
T21 Chemical fixation
T22 Chemical oxidation
T23 Chemical precipitation
T24 Chemical reduction
T25 Chlorination
T26 Chlorinolysis
T27 Cyanide destruction

T28 Degradation
T29 Detoxification
T30 Ion exchange
T31 Neutralization
T32 Ozonation
T33 Photolysis
T34 Other (specify)
Physical Treatment
Separation of Components:
T35 Centrifugation
T36 Clarification
T37 Coagulation
T38 Decanting
T39 Encapsulation
T40 Filtration
T41 Flocculation
T42 Flotation
T43 Foaming
T44 Sedimentation
T45 Thickening
T46 Ultrafiltration
T47 Other (specify)
Removal of Specific Components:
T48 Absorption-molecular sieve
T49 Activated carbon
T50 Blending
T51 Catalysis
T52 Crystallization
T53 Dialysis
T54 Distillation
T55 Electrodialysis
T56 Electrolysis
T57 Evaporation
T58 High gradient magnetic separation
T59 Leaching
T60 Liquid ion exchange
T61 Liquid-liquid extraction
T62 Reverse osmosis
T63 Solvent recovery
T64 Stripping

T65 Sand filter
T66 Other (specify)
Biological Treatment
T67 Activated sludge
T68 Aerobic lagoon
T69 Aerobic tank
T70 Anaerobic tank
T71 Composting
T72 Septic tank
T73 Spray irrigation
T74 Thickening filter
T75 Tricking filter
T76 Waste stabilization pond
T77 Other (specify)
T78 [Reserved]
T79 [Reserved]
Boilers and Industrial Furnaces
T80 Boiler
T81 Cement Kiln
T82 Lime Kiln
T83 Aggregate Kiln
T84 Phosphate Kiln
T85 Coke Oven
T86 Blast Furnace
T87 Smelting, Melting, or Refining Furnace
T88 Titanium Dioxide Chloride Process Oxidation Reactor
T89 Methane Reforming Furnace
T90 Pulping Liquor Recovery Furnace
T91 Combustion Device Used in the Recovery of Sulfur Values from Spent Sulfuric Acid
T92 Halogen Acid Furnaces
T93 Other Industrial Furnaces Listed in LAC 33:V.109 (specify)
Other Treatment
T94 Containment Building (Treatment)
Disposal
D79 Underground Injection
D80 Landfill
D81 Land Treatment
D82 Ocean Disposal
D83 Surface Impoundment (to be closed as a landfill)
D99 Other Disposal (specify)

Miscellaneous (Chapter 32)
X01 Open Burning/Open Detonation
X02 Mechanical Processing
X03 Thermal Unit
X04 Geologic Repository
X99 Other Chapter 32 (specify)

5. records and results of waste analyses and trial tests performed as specified in LAC 33:V.2237.A, 2245, 4313, 4445, 4453, 4467, 4481, 4507, 4515, 4527, 4539, 4557, and 4587;

6. summary reports and details of all incidents that require implementing the contingency plan as specified in LAC 33:V.1513.F.10;

7. records and results of inspections as required by LAC 33:V.1509.D (except these data need be kept only three years);

8. monitoring, testing, or analytical data, and corrective action where required by LAC 33:V.Chapter 43.Subchapter E, 4320, 4367, 4375, 4437, 4440, 4449, 4451, 4455, 4470, 4472, 4474, 4483, 4485, 4489.D.1, 4497, 4498, 4502, 4519, 4529, 4557, 4559, 4587, and 4589;

9. all closure cost estimates under LAC 33:V.4401 and, for disposal facilities, all post-closure cost estimates under LAC 33:V.4405;

10. records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal prohibition granted pursuant to LAC 33:V.2239, monitoring data required pursuant to a petition under LAC 33:V.2241 or 2242 or a certification under LAC 33:V.2235, and the applicable notice required of a generator under LAC 33:V.2245;

11. for an off-site treatment facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.2235, 2245, or 2247;

12. for an on-site treatment facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.2235, 2245, or 2247;

13. for an off-site land disposal facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under LAC 33:V.2235, 2245, or 2247;

14. for an on-site land disposal facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under LAC 33:V.2235, 2245, or 2247;

15. for an off-site storage facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.2235, 2245, or 2247;

16. for an on-site storage facility, the information

contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under LAC 33:V.2235, 2245, or 2247.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996).

Chapter 49. Lists of Hazardous Wastes
§4901. Category I Hazardous Wastes

[See Prior Text in A-E.Comment]

Table 3. Acute Hazardous Wastes

EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste
*** [See Prior Text in Acetaldehyde, chloro-Benzyl chloride]		
P015	7440-41-7	Beryllium Powder
*** [See Prior Text in Bromoacetone-Zinc phosphide....]		

¹ CAS Number given for parent compound only.

[See Prior Text in F-G(Table 6)]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790 (November 1988), LR 15:182 (March 1989), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:840 (September 1996).

Mike Strong
 Assistant Secretary

9609#010

RULE

Department of Health and Hospitals
Office of Public Health

Community Based and Rural Health Services
 (LAC 48:V.13301, 13303)
 (Repeal of LAC 48:I.15101, 15103)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Public

Health hereby adopts a rule establishing two distinctly separate processes for the criteria, application, consideration, selection, and awarding of a grant for an urban community-based health care program and a rural health care program. The two aforementioned distinct processes were mandated by Act 363 of the 1995 Louisiana Legislative Session.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 9. Primary Health Services

Chapter 151. Grants

§15101. Funding and Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2194-2198.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 18:54 (January 1992), repealed by the Office of Public Health, LR 22:840 (September 1996).

§15103. Funding and Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2194-2198.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 18:182 (February 1992), repealed by the Office of Public Health, LR 22:840 (September 1996).

Part V. Preventative Health Services

Subpart 49. Community Based and Rural Health Services

Chapter 133. Funding Eligibility (formerly Chapter 151 of Part I)

§13301. Rural Health Program (formerly §15101)

A. Contingent upon available funding, the Health Resources Management Section may establish one or more application cycles in any state fiscal year. At the beginning of any application cycle, eligible entities will be notified that applications are being accepted for grant projects.

B. Criteria for Applicants

1. Applicants for primary care clinic grants, demonstration grants, state matching funds for federal grants, and physician salary subsidy must:

a. be from rural areas as defined by the Department of Health and Hospitals, must be in a federally designated rural health-professional shortage area or medically underserved area of highest need;

b. be a local governmental entity or a nonprofit (501)(c)(3) organization domiciled in Louisiana;

c. serve low-income and indigent persons; and

d. have a sliding scale for payment of services.

2. Applicants for emergency health services grants must:

a. be small rural hospitals, defined as public and private acute care hospitals licensed for 60 beds or less which have a service municipality with a population of 20,000 people or less;

b. be in a federally designated rural health-professional shortage area or medically underserved area of highest need; and

c. serve low-income and indigent persons.

C. The HRM Section will provide forms and/or guidelines

for application to apply for program funds. The application shall be received by the deadline date and signed by the authorized representative and submitted to the HRM Section.

D. The HRM Section shall conduct a review of the application for eligibility, completeness and programmatic priority.

E. All applications and/or requests for funding will be referred to the Objective Review Committee for award recommendations. The committee will consider the project and may confer with outside parties as necessary to obtain information on the financial feasibility, and readiness to proceed and make written recommendations to the Health Resources Management Section.

F. Recommendations will be forwarded to the assistant secretary, OPH for approval. The assistant secretary will act on the application after a time period of proper consideration, but no later than 45 days after the application has been received by the assistant secretary.

G. The HRM Section will notify the applicant of the approval or disapproval of its application within 10 working days of the assistant secretary's action. Written notification of the approval will be accompanied by an agreement to be signed by an authorized representative of the applicant and returned by certified mail.

H. All communications regarding an eligible entity's application shall be directed to the HRM Section.

I. Grant Type Categories:

1. Emergency Health Services

a. Small rural hospitals, defined herein, can apply for grants up to \$75,000 to strengthen their capability to provide high quality emergency health services to indigent and low income persons in rural areas.

b. A letter of intent must be submitted and shall reflect how the funds requested will be utilized.

2. Primary Care Clinic Grants

a. A request for an application kit to establish or enhance a primary care clinic in a rural area may be obtained from the Health Resources Management Section.

b. The proposal must include a needs assessment, a management plan, a detailed budget and budget justification, and other information as defined in the application kit.

c. The proposal including any appendices, may not exceed 50 typed, double-spaced, letter size pages.

d. Grant requests may not exceed \$150,000.

3. Demonstration Grants

a. Applicants must be located in a rural medically underserved area and may apply for a grant to fund a project designed to innovatively, efficiently, and effectively develop and provide out-patient primary care services.

b. Demonstration projects can include, but are not limited to the establishment or acquisition of mobile health clinics, healthy communities projects, school-based clinic projects or others that will then secure other local or federal funding.

c. The grantee will be required to provide a 25 percent match (cash and/or in-kind) from the community or participating organization.

d. The proposal must include a needs assessment, a management plan, a detailed budget and budget justification,

and other information as defined in the application kit.

e. Application kits can be obtained from the Health Resources Management Section.

4. Physician Salary Subsidy

a. Local health agencies or communities may apply for state matching funds for physician salary guarantees of \$100,000 annually in salary and benefits to assist in recruiting and/or retain full time primary care physicians in the rural areas.

b. Primary care shall include pediatrics, OB/GYN, internal medicine, family practice, or general practice.

c. Subspecialty training is permitted provided the physician practices only primary care as specified.

d. A *full time primary care physician* is defined as a physician who practices out-patient preventive and primary care medicine at least 32 hours per week in not less than four days.

e. Local health agencies or communities are eligible for more than one award.

f. Only one award per physician is allowable under this program.

g. Eligible physicians must be newly hired or recently employed, as specified above, within the last five years.

h. State salary subsidies will not exceed \$50,000, and the local community must demonstrate its ability to at least match the state amount.

i. The Health Resources Management Section will contract directly with the local health agencies or communities who, in turn, contract with the primary care physician in the rural area. As such, agencies/communities must submit with their request for assistance, a copy of a contract with a physician which shall address the \$100,000 guarantee.

j. The Department of Health and Hospitals will make no payments under this incentive until the physician's actual received income and benefits are reconciled against his/her contract.

5. State Matching Funds for Federal Grants

a. Requests for one time funding only will be accepted for new projects to provide primary care out-patient services to indigent or low income persons as proposed in federal grant applications.

b. Eligible applicants must provide a copy of the federal announcement and completed federal application at the time of request for funding.

J. Eligibility. In order to be eligible to receive a grant through this program, in addition to meeting the criteria set forth in Subsection B, the following requirements must be met by an eligible entity:

1. An eligible entity shall be a community-based organization that may include hospitals, primary care clinics, or other local agencies that provides outpatient primary care in a rural area.

2. An eligible entity shall have a governing board whose membership is generally representative of the health care underserved area served.

3. An eligible entity which is a primary care clinic shall sustain or provide a minimum level of primary care services

through the services of a physician or midlevel practitioner as provided for by Louisiana medical practice law.

a. Services may additionally include, but not be limited to, medical support, diagnostic and treatment services, pharmacy, laboratory, radiology, preventive health services, emergency medical services, mental health, patient follow-up, and/or dental and dental support services.

b. Such services shall be provided in coordination with primary medical care services.

4. An eligible entity shall have policies and procedures which assure that no person will be denied services because of inability to pay.

5. An eligible entity shall comply with all applicable federal, state, and local laws and regulations.

6. An eligible entity shall ensure the grant funds are not utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service:

a. under:

- i. any state compensation program;
- ii. an insurance policy; or
- iii. any federal state health benefits programs; or

b. by an entity that provides health services on a prepaid basis.

7. Other requirements as determined by the department.

K. Review and Reporting Requirements

1. The successful applicant shall sign a Memorandum of Agreement for one-time funding only for the term of one year.

2. The grantee shall then submit programmatic and expenditure reports on a periodic basis as agreed upon in the MOA.

3. An audit report shall be submitted after the end of the contract period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2195, as amended by Act 363 of 1995.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 22:840 (September 1996).

§13303. Urban Community-Based Health Program (formerly §15103)

A. Contingent upon available funding, the Health Resources Management Section may establish one or more application cycles in any state fiscal year. At the beginning of any application cycle eligible entities will be notified that applications are being accepted for grant projects.

B. Applications will only be accepted from entities in a federally designated urban health-professional shortage area or medically underserved area, must:

1. be in an area of highest need;
2. serve low income and indigent persons;
3. have a sliding scale for payment; and
4. be a local governmental entity or a nonprofit (501)(c)(3) organization domiciled in Louisiana.

C. The HRM Section will provide forms and/or guidelines for application to apply for program funds. The application shall be received by the deadline date and signed by the authorized representative and submitted to the HRM Section.

D. The HRM Section shall conduct a review of the application for eligibility, completeness and programmatic priority.

E. All applications and/or requests for funding will be referred to the Objective Review Committee for award recommendations. The committee will consider the project and may confer with outside parties as necessary to obtain information on the financial feasibility, and readiness to proceed and make written recommendations to the Health Resources Management Section.

F. Recommendations will be forwarded to the assistant secretary, OPH for approval. The assistant secretary will act on the application after a time period of proper consideration, but no later than 45 days after the application has been received by the assistant secretary.

G. The HRM Section will notify the applicant of the approval or disapproval of its application within 10 working days of the assistant secretary's action. Written notification of the approval will be accompanied by an agreement to be signed by an authorized representative of the applicant and returned by certified mail.

H. All communications regarding an eligible entity's application shall be directed to the HRM Section.

I. Grant Type Categories

1. Primary Care Clinic Grants

a. A request for an application kit to establish or enhance a primary care clinic in an urban area may be obtained from the Health Resources Management Section.

b. The proposal must include a needs assessment, a management plan, a detailed budget and budget justification and other information as defined in the application kit.

c. The proposal, including any appendices, may not exceed 50 typed, double-spaced, letter size pages. Grant requests may not exceed \$150,000.

2. Demonstration Grants

a. Applicants must be located in an urban health-professional shortage area or medically underserved area and may apply for a grant to fund a project designed to innovatively, efficiently, and effectively develop and provide outpatient primary care services.

b. Demonstration projects can include, but are not limited to the establishment or acquisition of mobile health clinics, healthy communities projects, school-based clinic projects or others that will then secure other local or federal funding.

c. The grantee will be required to provide a 25 percent match (cash and/or in-kind) from the community or participating organization.

d. Application kits can be obtained from the Health Resources Management Section.

3. Physician Salary Subsidy

a. Local health agencies or communities may apply for state matching funds for physician salary guarantees of \$100,000 annually in salary and benefits to assist in recruiting and/or retaining full time primary care physicians in the inner-city urban areas.

b. Primary care shall include pediatrics, OB/GYN, internal medicine, family practice, or general practice.

c. Subspecialty training is permitted provided the physician practice only primary care as specified.

d. A *full time primary care physician* is defined as a physician who practices outpatient preventive and primary care medicine at least 32 hours per week in not less than four days.

e. Local health agencies or communities are eligible for more than one award.

f. Only one award per physician is allowable under this program.

g. Eligible physicians must be newly hired or recently employed, as specified above, within the last five years.

h. State salary subsidies will not exceed \$50,000, and the local community must demonstrate its ability to at least match the state amount.

i. The Health Resources Management Section will contract directly with the local health agencies or communities, who in turn contract with the primary care physician in the urban area. As such, agencies/communities must submit with their request for assistance, a copy of a contract with a physician which shall address the \$100,000 guarantee.

j. The Department of Health and Hospitals will make no payments under this incentive until the physician's actual received income and benefits are reconciled against his/her contract.

4. State Matching Funds for Federal Grants

a. Request for one time funding only will be accepted for new projects to provide primary care outpatient services to indigent or low income persons as proposed in federal grant applications.

b. Eligible applicants must provide federal announcement and completed federal application at the time of request for funding.

J. Eligibility. In order to be eligible to receive a grant through this program, the following requirements must be met by an eligible entity:

1. An eligible entity shall be a community-based nonprofit organization, hospital, primary care clinic, or organization that provides outpatient primary care in an urban health-professional shortage area.

2. An eligible entity shall have a governing board whose membership is generally representative of the health-care underserved area served.

3. An eligible entity which is a primary care clinic shall sustain or provide a minimum level of primary care services through the services of a physician or midlevel practitioner as provided for by Louisiana medical practice law.

a. Services may additionally include, but not be limited to, medical support, diagnostic and treatment services, pharmacy, laboratory, radiology, preventive health services, emergency medical services, mental health, patient follow-up, and/or dental and dental support services.

b. Such services shall be provided in coordination with primary medical care services.

4. An eligible entity shall have policies and procedures which assure that no person will be denied services because of inability to pay.

5. An eligible entity shall comply with all applicable

federal, state, and local laws and regulations.

6. An eligible entity shall ensure the requested funds will not be utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service:

a. under:

i. any state compensation program;

ii. an insurance policy; or

iii. any federal state health benefits programs; or

b. by an entity that provides health services on a prepaid basis.

7. Other requirements as determined by the department.

K. Review and Reporting Requirements

1. The successful applicant shall sign a Memorandum of Agreement for one-time funding only for the term of one year.

2. The grantee shall then submit programmatic and expenditure reports on a periodic basis as agreed upon in the MOA.

3. An audit report shall be submitted after the end of the contract period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2195, as amended by Act 363 of 1995.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 22:842 (September 1996).

Bobby P. Jindal
Secretary

9609#044

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code—Sewage Disposal (Chapter XIII)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Health and Hospitals, Office of Public Health has amended Chapter XIII of the State Sanitary Code, Appendix A, Part VI - Mechanical Waste Water Treatment Plant, (A:6.4.1), to resolve the questionable legality of the matter as presently written.

Chapter XIII, Appendix A, is amended as follows:

Chapter XIII Sewage Disposal

A:6.4.1 Permitted individual mechanical plants shall strictly comply with the related requirements provided for in Appendix A:6.5 of this Chapter. In all cases, judgment as to compliance with either NSF Standard Number 40 requirements (as revised May 1983 and July 1990 as applicable) and/or additional, related requirements provided for in Appendix A:6.5 of this Chapter shall be the responsibility and sole authority of the State Health Officer acting through the Office of Public Health. Such judgment as

to compliance with either NSF Standard Number 40 requirements (as revised May 1983 and July 1990 where applicable) and/or additional, related requirements provided for in appendix A:6.5 of this Chapter by the Department of Health and Hospitals, Office of Public Health, shall be evidenced upon issuance of approval in accordance with provisions of Appendix A:6.7 of this Chapter.

* * *

Bobby P. Jindal
Secretary

9609#043

RULE

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

Experimental or Investigational Medical Procedures

The Department of Health and Hospitals, Bureau of Health Services Financing is adopting the following rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act.

Rule

The Bureau of Health Services Financing adopts the following criteria to govern the coverage of medical services under the Medicaid Program.

Coverage of medical services is provided only for nonexperimental or noninvestigation procedures as identified by the American Medical Association, the Federal Drug Administration or recognized experts in the practice of medicine who can lend guidance and judgment regarding the development of new procedures.

Bobby P. Jindal
Secretary

9609#054

RULE

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

Vaccines for Children Program

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 the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

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

the Medicaid Vaccines for Children Program whereby the Bureau reimburses qualified and registered providers only for the administration of the pediatric vaccines. The statewide distribution of vaccines includes the health units of the Office of Public Health, federally qualified health centers and private providers. The following provisions govern the reimbursement of pediatric vaccines under the Medicaid Vaccines for Children Program.

1. A qualified and registered provider must:

- a. be a licensed health care provider who has authority under Louisiana state law to administer pediatric vaccines;
- b. be an enrolled Medicaid provider and an enrolled Vaccines for Children Program provider; and
- c. not have been found by the Health Care Financing Administration or the State of Louisiana to have violated a provider agreement or other applicable requirements.

2. Medicaid reimbursement for the administration cost of the pediatric vaccines is \$9.45 for the first year and this rate may be inflated by the Medical—All Items line of the Consumer Price Index for each of the succeeding two years, and:

- a. is provided only for Medicaid eligible children; and
- b. shall be made only for the administration of vaccines in accordance with the immunization schedule adopted by the National Academy of Pediatrics as required by the KIDMED Program under the Medicaid Program.

3. There is no Medicaid reimbursement for the cost of the pediatric vaccines administered to Medicaid-eligible children that may be obtained through the Vaccines for Children Program.

4. The pediatric vaccines included under the Medicaid Vaccines for Children Program include the following:

- a. DTaP—Diphtheria, Tetanus and acellular Pertussis;
- b. DTP—Diphtheria, Tetanus, Pertussis;
- c. MMR—Measles, Mumps and Rubella;
- d. Poliovirus;
- e. Hep B—Hepatitis B;
- f. HIB—Hemophilus Influenza B;
- g. DT—Diphtheria and Tetanus;
- h. DTP—HIB combination vaccine.

Bobby Jindal
Secretary

9609#055

RULE

**Department of Public Safety and Corrections
Office of State Police**

Concealed Handgun Permit (LAC 55:I.Chapter 13)

(Editor's Note: Because of the numerous requests by the public for a copy of the following Chapter 13, including existing and amended provisions, the Office of the State Register is publishing this chapter in its entirety. Provisions of the rule originally promulgated in November, 1975 are indicated in italics.)

The Department of Public Safety and Corrections, Office of State Police, Concealed Handgun Permit Section, in

compliance with and under authority of R.S. 49:950 et seq., and R.S. 33:4862.1 et seq., amends, in their entirety, the rules and regulations pertaining to the issuance of concealed handgun permits and the regulation of concealed handgun applicants and permittees as outlined below:

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 13. Issuance of Concealed Handgun Permits

§1301. Statement of Department Policy

A. The rules contained herein are promulgated by the Concealed Handgun Permit Section of the Department of Public Safety and Corrections, Office of State Police in order to set forth the policies and procedures applicable to the issuance of concealed handgun permits to Louisiana citizens who qualify for such permits pursuant to R.S. 40:1379.1(I), 40:1379.3, 40:1381, and 40:1382, and the issuance of special officer commissions; to provide statewide uniform standards for issuing permits to carry concealed handguns; and to maintain the health, welfare, and safety of the public. These considerations shall control the application and interpretation of these rules. Any subsequent restatement, repeal, or amendment of these rules shall be in accordance with the aforementioned considerations.

B. *Applicability.* The policies and procedures provided herein shall be applicable to all Louisiana citizens who display a need for statewide concealed handgun permit, provided however, that before an applicant makes application to the Superintendent of State Police, he must have been granted a concealed handgun permit by the chief law enforcement officer of the parish in which he is officially domiciled.

C. *Handgun Defined.* For the purpose of issuing concealed handgun permits, a "handgun" is defined as any pistol or revolver originally designed to be fired by the use of a single hand and which is designed to fire or is capable of firing fixed cartridge ammunition.

D. *Duties and Responsibilities.* Persons issued concealed handgun permits have the authority only to carry a concealed weapon and are regarded as private citizens in all matters of law with no special powers or authority accruing by virtue of the concealed handgun permit.

E. *Application.* Eligible persons shall be entitled to receive the concealed handgun permit, as set forth above; provided, that all requirements of the Superintendent of State Police, relating to application shall be satisfied. Applications shall be submitted in the manner prescribed by the Superintendent of State Police and will include the submission of such documents and materials establishing eligibility as the superintendent may deem necessary.

F. *Revocation.* The Superintendent of State Police may revoke concealed handgun permits when conditions and/or circumstances are such that the holder of such permit can no longer show need or when the holder commits acts contrary to law or uses the permit for self aggrandizement or in an unreasonable and imprudent manner.

G. *Penalty.* Holders of concealed handgun permits issued by the superintendent who use a handgun in a task or manner not directly related to the stipulations contained herein or set

forth in the permit shall be subject to a fine of not more than \$500, or imprisoned for not more than six months, or both.

H. *Termination.* Concealed handgun permits will automatically expire one year from the date of issue.

I. *Qualifications and Requirements.* The following qualifications and requirements must be met before a concealed handgun permit is issued:

1. Applicant must have been issued a concealed handgun permit from the chief law enforcement officer of the parish in which he is officially domiciled.

2. Applicant must submit a letter which details the need for a statewide concealed handgun permit. If the applicant is employed and the nature of the employment is the basis for need of a permit, then, in addition to his letter, a detailed letter from his employer stating such need is necessary.

3. Applicant must complete and personally present a detailed application along with the following documents:

a. complete fingerprint file which has been prepared by a law enforcement agency;

b. a certificate of true copy of birth certificate;

c. four color photos 2" by 2" — two side views and two front views;

4. Must have a notarized statement from a Louisiana law enforcement agency that he has demonstrated the ability to use a handgun in a safe and competent manner.

5. Show proof of faithful service bond in the minimum amount of \$10,000.

6. If the applicant has an arrest record, he must present a notarized statement from the clerk of court and district attorney of the parish in which the arrests were made which specifies the disposition on all charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 1:495 (November 1975), amended by the Department of Public Safety and Corrections, Office of State Police, LR 22:845 (September 1996).

§1303. Issuance of Special Officer's Commission

A. *Purpose.* The purpose of this regulation is to set forth the policies and procedures applicable to the issuance of special officer's commission to persons showing need for such commissions as required in accordance with the provisions of Title 40, Section 1379.1 of the Louisiana Revised Statutes.

B. *Applicability.* The policies and procedures provided herein shall be applicable to all officers, agents, and employees of agencies, boards and commissions of the state of Louisiana; of local government subdivisions; of private institutions or others who display a need for statewide police power and power to arrest, are bonded and meet other restrictions as required.

C. *Duties and Responsibilities.* Authorized persons commissioned as special officers shall have the direct authority to perform those activities specified on the special officer's commission card. However, when the holder of a special officer's commission is not performing those tasks specified on the commission card, he shall be regarded as a private citizen and his commission shall not be in effect.

D. *Application.* The Superintendent of State Police shall be authorized to issue at his discretion a special officer's commission from the Office of State Police. All requirements

of the Superintendent of State Police, relating to application shall be satisfied. Applications shall be submitted in the manner prescribed by the Superintendent of State Police and will include the submission of such documents and materials establishing eligibility as the superintendent may deem necessary.

E. Revocation. The Superintendent of State Police may revoke special officer's commission when conditions and/or circumstances are such that the holder of a special commission can no longer show need or when the holder commits acts contrary to law or to the jurisdictional stipulations of the commission or through his actions or lack of action brings discredit upon the state of Louisiana, its departments, agencies or commissions or its political subdivisions. Persons holding special officer's commissions are subject to the same statutory responsibilities and liabilities as are all other local and state law enforcement officers.

F. Termination. Special officer commissions will automatically expire one year from the date of issue or as otherwise provided by law.

G. Qualifications and Requirements. The following requirements must be met before a special officer's commission will be issued. All applicants:

1. must submit a letter which details the need for statewide police power and the power to arrest. If the applicant is employed and the nature of the employment is the basis for need of a special officer's commission, then, in addition to his letter, a detailed letter from the employer stating the need is necessary;

2. must complete a detailed application and submit application along with the following documents:

a. complete fingerprint file which has been prepared by a law enforcement agency;

b. copy of birth certificate;

c. four color photos 2" by 2" — two side views and two front views;

3. must have completed a minimum 240 hours of basic law enforcement training or possess related experience or ability equal to such training;

4. submit to and pass a comprehensive background investigation, said investigation to be conducted by the Louisiana State Police;

5. show proof of faithful service bond in the minimum amount of \$10,000; and

6. if the applicant has an arrest record, he must present a notarized statement from the clerk of court and the district attorney of the parish in which the arrests were made which specifies the disposition on all charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 1:495 (November 1975), amended by the Department of Public Safety and Corrections, Office of State Police, LR 22:845 (September 1996).

§1305. Definitions

For the purposes of these rules, the following words and phrases shall mean:

Addiction—the habitual use of alcoholic beverages or any

controlled dangerous substance as defined in R.S. 40:961 and 40:964.

Applicant—a person who has completed and submitted an application to the department seeking a concealed handgun permit.

Application—the forms and schedules prescribed by the department upon which an applicant seeks a permit or the renewal thereof. Application also includes information, disclosure statements, releases, certificates or any other form required by the department in the application process.

Citizen—any person legally residing in Louisiana and who has been a resident for six months or longer immediately preceding the filing of an application for a concealed handgun permit.

Concealed Handgun—any handgun as defined in R.S. 40:1379.3(J)(1), which is carried on a person in such a manner as to hide or obscure the handgun from plain view.

Department—Department of Public Safety and Corrections, Office of State Police.

Deputy Secretary—the deputy secretary of the Department of Public Safety and Corrections who serves as the Superintendent of the Office of State Police.

Fugitive from Justice—a person who flees, evades, or escapes from any jurisdiction to avoid arrest, prosecution, or imprisonment for any criminal offense, which shall include outstanding traffic attachments or warrants, or to avoid giving testimony in any criminal proceeding.

Illegal Alien—any person without legal authority to enter or remain in the United States and who is not legally residing within the United States or any territory or possession of the United States.

Machine Gun—any firearm which shoots or is designed to shoot more than one round without reloading and by a single function of the trigger.

N.R.A.—National Rifle Association.

Permit—the authorization issued by the deputy secretary of the Department of Public Safety and Corrections pursuant to R.S. 40:1379.3 and these rules, which shall be valid for four years from the date of issuance unless revoked, suspended, or otherwise invalidated, and shall contain a permit number, date of expiration, and the name, address, date of birth, physical description, and photograph of the permittee.

Permittee—an individual who meets the qualifications as described in R.S. 40:1379.3 and these rules and to whom a concealed handgun permit has been issued.

Pistol—a handgun that has a short barrel and can be held, aimed, and fired with one hand and is capable of only firing a single round each time the trigger is pulled, which includes semi-automatic handguns.

Revolver—a pistol that has a rotating cylinder containing a number of firing chambers. The action of the trigger or hammer will line up a chamber with the barrel and firing pin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:846 (September 1996).

§ 1307. Applications and Permits

A. Request for Application Materials. A person who wishes to obtain application materials in order to apply for a

permit may submit a completed "Request for Application To Carry A Concealed Handgun" (form DPSSP 4644) to the department.

B. Initial Applications

1. All applications for a permit shall be submitted on forms provided by the department and mailed to:

Louisiana State Police
Concealed Handgun Permit Section
P. O. Box 66375
Baton Rouge, LA 70896

2. All applicants shall provide all additional information requested by the department within 10 business days of receipt of the request, unless an extension is granted by the department. If any applicant fails to provide all additional information requested by the department, the application shall be considered incomplete and will not be processed until completed.

3. All applicants shall submit with their application one color passport photograph that meets the following specifications:

- a. photograph taken within 60 days of submission of application;
- b. full frontal view photograph of the applicant including his head and hair;
- c. sunglasses, hats, or caps may not be worn while taking photograph; and
- d. the rear of the photograph must be signed and dated by the employee of the law enforcement agency where the applicant's fingerprints are taken.

4. All applicants shall submit with their application a complete, legible, and classifiable FBI applicant fingerprint card taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints.

5.a. For purpose of proof that the applicant has resided within this state for at least six months prior to his application for a permit, the applicant shall submit with his application a photocopy of his valid Louisiana driver's license or Louisiana identification card. In the event the applicant does not possess a valid Louisiana driver's license or a Louisiana identification card, proof of residency must be established by any one of the following:

- i. United States passport;
- ii. Louisiana voter registration card;
- iii. a utility bill, phone bill, proof of mortgage or rent payments in the name of the applicant which establishes a Louisiana permanent address of the applicant; or
- iv. any other documentation which adequately satisfies proof of compliance with the qualifications for residing within this state six months prior to applying for a concealed handgun permit.

b. For purposes of proof of residency, a business address or post office box shall not suffice.

6. For purposes of proof that the applicant is at least 21 years of age, a photocopy of his valid Louisiana driver's license or Louisiana identification card which contains the applicant's date of birth shall suffice. In the event the applicant does not possess a valid Louisiana driver's license or Louisiana identification card, the applicant shall submit with his application a certified true copy of his birth certificate.

7. All application forms are to contain a properly notarized oath wherein the applicant swears that:

- a. the information contained therein is true and correct;
- b. the applicant has read the applicable law and these rules, and any other informational materials supplied by the department that pertain to concealed handgun permits;
- c. the applicant agrees to comply with these rules and the law; and
- d. the applicant understands that any omission or falsification of any information required in the application could subject the applicant to criminal penalties.

8. All applications shall contain the permittee's home and daytime telephone number and a permanent mailing address for receipt of correspondence and service of documents by the department.

9. All applications submitted to the department shall contain proof of competency with a handgun as evidenced by any one of the following:

- a. a photocopy of an honorable discharge from military service - (DD214) issued to an applicant who has been released or has retired from active duty;
- b. a photocopy of a certificate or document which evidences completion of basic training with service record evidence having successfully completed small arms training and qualification for personnel on active duty or serving in one of the National Guard or reserve components of the Armed Forces;
- c. an affidavit from the instructor, school, club, organization, or group attesting to the applicant's completion of one of the courses or classes described in §1311.A of these rules;
- d. photocopy of a certificate of completion of one of the courses or classes described in §1311.A of these rules; or
- e. a photocopy of a current valid permit or license to carry a concealed handgun issued to the applicant by a parish law enforcement officer.

10. All applications shall include a properly executed affidavit, provided by the department, whereby the applicant agrees in writing to hold harmless and indemnify the department, the state or any peace officer for any and all liability arising out of the issuance or use of the concealed handgun permit.

11. Incomplete applications, including failure to pay fees, may result in a delay or denial of a permit application.

12. The applicant or permittee shall notify the department, in writing, of any change of address, name, phone number, or other information required in the application, including the effective date of the change, within 30 days of the effective date of the change.

13. Any false statement or improper notarization contained in any report, disclosure, application, permit form, or any other document required by the department shall be a violation of these rules and may be cause for denial, suspension, or revocation of the permit.

14. All applications shall be submitted with a certified check or money order for the application or renewal fee as provided in LAC 55:I.1307.B.15. An application is not complete unless it is submitted with the appropriate fee, is

signed by the applicant, and contains all information required by the department.

15. All applicants shall submit with the application a non-refundable \$100 fee in the form of a certified check or money order. All applicants who have not continuously resided within the state of Louisiana for the 15 years preceding the submission of the application shall enclose an additional non-refundable \$50 fee.

C. Qualifications to Receive a Permit. To qualify for a concealed handgun permit, a citizen shall:

1. be a resident of the state and have been a resident for six months or longer immediately preceding the filing of the application;

2. be 21 years of age or older;

3. not suffer from a mental infirmity due to disease, illness, or retardation which prevents the safe handling of a handgun;

4. not be ineligible to possess a firearm by virtue of having been convicted of a felony;

5. not have been committed, either voluntarily or involuntarily, to any institution for the abuse of a controlled dangerous substance as defined by R.S. 40:961 and 40:964 or been found guilty of, or entered a plea of guilty or nolo contendere to a misdemeanor under the laws of this state or similar laws of any other state relating to a controlled dangerous substance within a five year period immediately preceding the date on which the application is submitted, or be presently charged under indictment or a bill of information for such an offense;

6. not chronically and habitually use alcoholic beverages to the extent that his normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages to the extent that his normal faculties are impaired if, within the five year period immediately preceding the date on which the application is submitted, the applicant has been found guilty of, or entered a plea of guilty or nolo contendere to operating a vehicle while intoxicated, or have been committed, either voluntarily or involuntarily, for treatment as an alcoholic;

7. not have entered a plea of guilty or nolo contendere to or been found guilty of a crime of violence as defined in R.S. 14:2 at the misdemeanor level, unless five years have elapsed since completion of sentence or any other conditions set by the court have been fulfilled, or unless the conviction was set aside and the prosecution dismissed, prior to the date on which the application is submitted;

8. not have been convicted of, have entered a plea of guilty or nolo contendere to, or not be charged under indictment, or a bill of information for any crime of violence or any crime punishable by imprisonment for a term of one year or greater. A conviction, plea of guilty, or plea of nolo contendere under this Paragraph shall include a dismissal and conviction set aside under the provisions of Code of Criminal Procedure, Article 893;

9. not be a fugitive from justice;

10. not be an unlawful user of, or addicted to, marijuana, depressants, stimulants, or narcotic drugs;

11. not have been adjudicated to be mentally deficient or been committed to a mental institution;

12. not be an illegal alien in the United States; and

13. not have been discharged from the Armed Forces of the United States with a discharge characterized as "Under Other than Honorable Conditions", a "Bad Conduct Discharge", or a "Dishonorable Discharge". In the case of Commissioned Officers and Warrant Officers of the United States Armed Forces, the punishment of "Dismissal" rendered subject to a verdict of "guilty" at a trial by military court-martial is deemed to be disqualifying under this paragraph. For the purposes of this paragraph, the United States Coast Guard is considered an armed force.

D. Renewal of Permits

1. A permittee wishing to renew his concealed handgun permit shall file a renewal application no more than 120 days prior to the expiration of the permit. All renewal applications shall include a new photograph of the applicant as specified in LAC 55:I.1307.B.3.

2. A renewal application shall be considered filed with the department when it is completed and submitted with the appropriate fee, is signed by the applicant, contains all information required by the department, and is date stamped received by the department or is postmarked no more than 120 days prior to the expiration of the permit.

3. An incomplete renewal application will not be considered filed and will be rejected.

4. Each permittee applying for a renewal of his permit shall complete additional educational training within one year prior to submitting a renewal application, which instruction shall include:

a. instruction on handgun nomenclature and safe handling procedures for a revolver and a semi-automatic pistol;

b. instruction on ammunition knowledge and fundamentals of pistol shooting;

c. instruction on handgun shooting positions;

d. instruction on the use of deadly force and conflict resolution which shall include a review of R.S. 14:18 through 14:22 and which may include a review of any other laws relating to use of deadly force;

e. instruction on child access prevention; and

f. actual live range fire and proper handgun cleaning procedures:

i. live range fire shall include 12 rounds each at 6 feet, 10 feet and 15 feet for a total of 36 rounds;

ii. each applicant or permittee must perform at least one safe reload of the handgun at each distance;

iii. each applicant or permittee must score 100 percent hits within the silhouette portion of a N.R.A. B-27 type silhouette target with at least 36 rounds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:846 (September 1996).

§1309. Permits

A. The securing of a permit required by R.S. 40:1379.3 and these rules shall be a prerequisite for carrying a concealed handgun.

B. A permit shall grant statewide authority to a permittee to carry and conceal on his person, in the manner prescribed

by law and these rules, a handgun as defined by R.S. 40:1379.3(J)(1). A permit shall grant a permittee only the authority to carry a concealed handgun as a private citizen and grants no special authority to any citizen awarded such a permit.

C. An applicant for a concealed handgun permit accepts the risk of adverse public notice, embarrassment, criticism or other action or loss that may result from action with respect to an application and expressly waives any claim for damages as a result thereof, except relating to willful misconduct by the department.

D. Failure to meet and maintain the qualification requirements as required by law and these rules, shall result in the denial, suspension, or revocation of a concealed handgun permit.

E. A permittee shall retain and carry his permit on his person when actually carrying and concealing a handgun and shall immediately produce his permit upon request of any law enforcement officer. Anyone who violates this Section shall be fined not more than \$100.

F. No concealed handgun permit shall be valid or entitle any permittee to carry a concealed handgun in any facility, building, location, zone, or area in which firearms are banned by state or federal law.

G. No concealed handgun permit issued pursuant hereto shall authorize or entitle a permittee to carry a concealed handgun in any of the following:

1. a law enforcement office, station, or building;
2. a detention facility, prison, or jail;
3. a courthouse or courtroom, provided that a judge may carry such a weapon in his own courtroom;
4. a polling place;
5. a meeting place of the governing authority of a political subdivision;
6. the state capitol building;
7. any portion of an airport facility where the carrying of firearms is prohibited under federal law, except that no person shall be prohibited from carrying any legal firearm into the terminal, if the firearm is encased for shipment, for the purpose of checking such firearm as lawful baggage;
8. any church, synagogue, mosque or other similar place of worship;
9. a parade or demonstration for which a permit is issued by a governmental entity;
10. any portion of the permitted area of an establishment that has been granted a Class A-General retail permit, as defined in Part II of Chapter I or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, to sell alcoholic beverages for consumption on the premises;
11. any school "firearm-free zone" as defined in R.S. 14:95.6;
12. any private residence of another person, unless the permittee first receives the permission of that person; and
13. any other property or premises where access by those possessing a concealed handgun is restricted by the property owner, lessee or lawful custodian.

H. Any permit issued pursuant hereto shall automatically become invalid for any of the following reasons:

1. the permit is altered in any manner;

2. the permit is lost or stolen;

3. the permittee is carrying it while under the influence of alcoholic beverages or a controlled dangerous substance; or

4. the permittee ceases to reside within this state.

I. Any permit issued by the deputy secretary of the Department of Public Safety and Corrections shall be deemed to be the property of the department and shall be surrendered and returned to the department upon suspension, revocation or expiration, or when the permittee ceases to reside in the state.

J. The following shall be mandatory grounds for revocation of a permit by the deputy secretary:

1. the permittee fails to satisfy or maintain any one of the qualification requirements enumerated in the law or these rules;

2. the permittee violates the provisions of R.S. 40:1379.3(I) or R.S. 40:1382.

K. An otherwise lawful permit shall be considered automatically suspended and not valid while the permittee is under the influence of alcoholic beverages or a controlled dangerous substance. For purposes of these rules and the applicable law, a permittee shall be considered under the influence as evidenced by a blood alcohol reading of .05 grams percent or greater by weight of alcohol in the blood, or when a blood test or urine test shows any confirmed presence of a controlled dangerous substance as defined in R.S. 40:961 and 964.

L. The deputy secretary shall automatically suspend a permit for six months if a permittee fails to comply with the provisions of R.S. 40:1379.3(I)(2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:848 (September 1996).

§1311. Handgun Training Requirements

A. Upon application to the department for a permit, all applicants shall demonstrate competence with a handgun by any one of the following:

1. completion of any Department of Public Safety and Corrections approved firearms safety or training course which shall include at least a minimum of nine hours of instruction as detailed below:

- a. one hour of instruction on handgun nomenclature and safe handling procedures of a revolver and semi-automatic pistol;

- b. one hour of instruction on ammunition knowledge and fundamentals of pistol shooting;

- c. one hour of instruction on handgun shooting positions;

- d. three hours of instruction on the use of deadly force and conflict resolution which will include a review of R.S. 14:18 through 14:22 and which may include a review of any other laws relating to the use of deadly force;

- e. one hour of instruction on child access prevention; and

- f. two hours of actual live range fire and proper handgun cleaning procedures:

- i. live range fire shall include 12 rounds each at 6 feet, 10 feet and 15 feet for a total of 36 rounds;

ii. each applicant or permittee must perform at least one safe reload of the handgun at each distance;

iii. each applicant or permittee must score 100% hits within the silhouette portion of a N.R.A. B-27 type silhouette target with at least 36 rounds.

2. completion of the N.R.A. personal protection course including instruction in child access prevention conducted by a N.R.A. certified instructor;

3. completion of the N.R.A. basic pistol shooting course including instruction in child access prevention conducted by a N.R.A. certified instructor;

4. completion of a firearms training course approved by the Louisiana State Board of Private Security Examiners, in accordance with R.S. 37:3284 et seq. including instruction in child access prevention;

5. possession of a current valid license or permit to carry a concealed handgun issued by a parish law enforcement officer;

6. completion of a law enforcement training academy program certified by the Council on Peace Officer Standards and Training (P.O.S.T.); or

7. proof of completion of small arms training while serving with the armed forces of The United States of America as described in R.S. 40:1379.3(D)(1).

B. No certification or completion from any firearms training course or class available to the public offered by a law enforcement agency, college, or private or public institution or organization or firearm training school shall be accepted unless said course received prior approval from the department in accordance with R.S. 40:1379.3(D)(1)(b), (c), and (e).

1. The provider of any course offered for the purpose of certification to obtain a concealed handgun permit must submit a detailed course syllabus and any course materials to the department in order for the department to evaluate said course for approval pursuant to R.S. 40:1379.3(D)(1)(b), (c), and (e).

2. The course syllabus must include the name and address of the instructors and a certified true copy of the instructors' N.R.A. or P.O.S.T. instructor certification.

C. Any teaching or training required under this Part must be conducted by a current N.R.A. certified or P.O.S.T. certified instructor who has registered his name and certification with the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:849 (September 1996).

§1313. Code of Conduct of Permittees

A. General Provisions

1. All permittees shall comply with all applicable federal and state laws and regulations.

2. Any violation of R.S. 40:1379.3, 40:1381, or 40:1382 shall also constitute a violation of these rules.

3. Each permittee shall meet and maintain all qualifications necessary to possess a concealed handgun permit.

B. Duties and Responsibilities of the Permittee

1. A permittee shall retain and carry on his person his concealed handgun permit at all times he is actually carrying and concealing any handgun authorized by the permit and shall immediately produce his permit upon the request of any law enforcement officer. Anyone who violates this provision shall be fined not more than \$100.

2. A permittee armed with a handgun shall notify any police officer who approaches the permittee in an official manner or with an identified official purpose that he has a handgun on his person, submit to a pat down, and allow the officer to temporarily disarm him. Failure to comply with this provision shall result in a six-month automatic suspension of the permit.

3. A permittee is prohibited from carrying a concealed handgun on his person while under the influence of alcoholic beverages or a controlled dangerous substance as defined in R.S. 40:961 and R.S. 40:964. For purposes of these rules, a permittee shall be considered under the influence as evidenced by a blood alcohol reading of .05 grams percent or greater by weight of alcohol in the blood, or when a blood test or urine test shows any confirmed presence of a controlled dangerous substance as defined in R.S. 40:961 and 40:964. When a law enforcement officer is made aware that a permittee is carrying a concealed handgun and the officer has reasonable grounds to believe that the permittee is under the influence of either alcoholic beverages or a controlled dangerous substance as defined in R.S. 40:961 and 40:964, the law enforcement officer may take temporary possession of the handgun and require the permittee to submit to a department certified chemical test. The law enforcement agency by which such officer is employed shall designate which of the aforesaid tests shall be administered. Failure of the permittee to comply with the provisions of this Section, shall result in a six-month automatic suspension of the concealed handgun permit.

4. Each permittee shall notify the department in writing of any change of address, name, phone number, or other information required in any initial application, including the effective date of the change, within 30 days of the effective date of the change. Failure to comply with this provision may result in a fine of up to \$100 assessed by the department.

5. A permittee shall notify the department of any misdemeanor or felony arrest or issuance of any summons other than a minor traffic violation, but including all DWI arrests, in this state or any other jurisdiction, within 15 days of the arrest or issuance of the summons. Notice shall be sent via certified mail, return receipt requested and shall include the date of arrest or summons, the arresting or issuing agency, jurisdiction in which the arrest occurred, the specific offense charged, whether the offense is classified as a felony or misdemeanor, the results of any chemical test which may have been administered in conjunction with the arrest or summons, a copy of any citation or summons issued, and any other pertinent information regarding the arrest or summons. Failure to notify the department in accordance with this Section may result in a 90-day suspension of the permit.

6. When a permittee ceases to reside within this state, the permit automatically becomes invalid and the permittee shall return the concealed handgun permit to the department

within five business days from the date he ceases to reside within this state.

7. A permittee shall immediately return the concealed handgun permit to the department upon automatic suspension or revocation of the permit. If the permit is under suspension, failure to immediately return the permit to the department shall be grounds for revocation.

8. A permittee shall immediately inform the department in writing of any handgun related accident, injury or death involving a permittee.

9. Upon death of any permittee, the permittee's estate representative shall notify the department and return the concealed handgun permit to the department.

10. Any permittee or applicant who is subject to any preliminary or permanent injunction in any family or domestic dispute, or any other protective order issued pursuant to law, shall notify the department of the caption of the suit including the suit or proceeding number, the date of the issuance of the injunction or court order, and provide a signed copy of the court's order within three days of the issuance of any such order. Upon the issuance of the injunction or court order, the permit shall be automatically suspended or the department shall cease processing an applicant's application pending final resolution of the domestic dispute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:850 (September 1996).

§1315. Appeal and Hearing Procedures

A. Notice of Permit Denial and Appeal Therefrom

1. An applicant who is denied a concealed handgun permit shall be notified in writing by the department. Such notice shall comply with R.S. 49:955(B). Upon receipt of such notice, the applicant shall have two options:

a. Option 1 - Informal Review. The applicant shall have 10 business days to request an informal review of documentation and evidence provided by the applicant setting out reasons the denial should be considered improper. Should the applicant remain dissatisfied with the department's decision following this review process, the applicant may appeal this decision within 20 business days of receipt of the department's decision by requesting an administrative hearing. Any such hearing requested by an applicant shall be scheduled and conducted in accordance with the Administrative Procedure Act pursuant to R.S. 49:950 et seq.

b. Option 2 - Formal Appeal. The applicant may appeal the denial by the department in writing within 30 days of receipt of the department's decision by requesting an administrative hearing. Any such hearing requested by an applicant shall be scheduled and conducted in accordance with the Administrative Procedure Act pursuant to R.S. 49:950 et seq.

2. A request for an administrative hearing shall be made in writing and sent to the department. If no request for a hearing is timely made, the denial shall become final.

B. Notice of Suspension, Revocation or Fine

1. A permittee whose permit is revoked, suspended, or who is issued a fine shall be notified in writing by the

department. Such notice shall be in compliance with R.S. 49:955(B), and the action shall be considered to be immediately in effect.

2. Upon receipt of such notice, the permittee shall have 10 business days to request, in writing, a review of the department's action. The permittee should provide the department with relevant information which might have some bearing on the department's action. The permittee should include any documents or other evidence he wishes the department to consider.

3. If the permittee is not satisfied with the outcome of the department's review, he may request judicial review pursuant to the Administrative Procedure Act, R.S. 49:964.

C. General Provisions

1. Upon receipt of a request for any review, the deputy secretary or his designee shall review the department's action considering the information submitted, and affirm, modify, or reverse the department's action. Written notice of the department's decision to affirm, modify or reverse the department's action shall be provided to the permittee.

2. Except as otherwise provided by these rules, any notice shall be served by certified mail, return receipt requested, to the permanent address that is provided in the application, or latest amendment thereto, on file with the department. If any incorrect or incomplete address has been supplied to the department by the applicant or permittee, such that service cannot be successfully completed, or the applicant or permittee fails to accept properly addressed certified mail, notice shall be presumed to have been given.

3. No applicant or permittee shall be allowed to carry a concealed handgun while any such appeals or considerations are pending.

4. Any fine levied by the department which is adjudicated to a final judgment shall be paid within 15 calendar days of said judgment. Failure to pay such a fine shall result in suspension or revocation of the permit.

5. In cases of serious violations of the law or these rules, or in situations in which the law calls for automatic suspension or revocation, or violations which present a danger to the public health, safety or welfare, the department may provide notice by telephone or hand delivery. Such notice shall be promptly documented and confirmation in writing shall be provided to the permittee.

6. Any request for an administrative hearing shall be made in writing and sent to the department within the delays allowed by these rules. If no request for a hearing is timely made, the action and/or penalty shall become final.

7. Any pre-hearing discovery for the administrative hearing shall be conducted pursuant to R.S. 49:956.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:851 (September 1996).

§1317. Severability Clause

If any provision of these rules is declared invalid for any reason, that provision shall not affect the validity of the remaining rules or any other provision thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:851 (September 1996).

Colonel William "Rut" Whittington
Deputy Secretary

9609#035

RULE

Department of Revenue and Taxation Sales Tax Division

Alternate Filing Period (LAC 61:I.4351)

Under the authority of R.S. 47:306 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation, Sales Tax Division, has amended LAC 61:I.4351 pertaining to the payment of tax, the filing of returns, and the penalty for absorption of the tax.

This rule has been amended in order to inform the public of the procedures that must be used in order to request an alternate filing period method to be used to file sales tax returns.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 43. Sales and Use Tax Exemptions

§4351. Returns and Payment of Tax, Penalty for Absorption of Tax

A. General. All persons and dealers who are subject to the tax under this Chapter are expected and required to file a tax return monthly, unless otherwise provided, and to remit the amount of tax due to the secretary. Forms will be provided by the secretary, and although the forms are usually mailed to each dealer, failure to receive same will not relieve the dealer of the necessity of filing and remitting the tax due currently. For the purpose of collecting and remitting to the state the tax imposed by this Chapter, the dealer is hereby declared to be the agent of the state.

1. After a dealer is properly registered for sales and use tax purposes, an identifying sales tax number is assigned to that dealer. The assignment of a regular sales tax number requires a dealer to file a monthly return and failure to do so will cause the secretary to send an estimated proposed assessment. For months when the dealer has no taxable sales or amounts to report, the return should be marked "no sales or taxable amounts," signed by the dealer and filed with the secretary. Monthly returns are required to be filed with the secretary on or before the 20th day of the month following the month in which the tax becomes effective.

2. The secretary, for good cause, may extend, for a period not to exceed 30 days, the time for making any returns required under the provisions of this Chapter. Failure of the dealer to abide by the agreement and file returns and

remittances as required will result in an immediate cancellation of the extension agreement by the secretary.

3. The tax computed to be due by the dealer is payable at the time the return is due, and failure to do so will cause the secretary to issue a 10-day demand assessment. Failure to file the returns on or before the due date, will subject the dealer to delinquency charges, loss of vendor's compensation and other charges as provided by law. See R.S. 47:1519 for information on electronic funds transfers (EFT).

4. Gross proceeds from rentals or leases shall be reported on the appropriate line of the return, and the tax shall be paid with respect thereto, unless an exemption is specifically authorized and explained on the return. Rental and lease proceeds shall be reported on the 20th day of the month following the monthly or quarterly reporting period in which the proceeds were actually collected by the dealer, regardless of the period in which the lease or rental occurred.

5. The dealer is compensated for accounting for and remitting the tax levied by this Chapter at the rate established by R.S. 47:306. The amount of compensation is computed by multiplying the rate by the amount of tax due and deducting that amount from the total tax accounted for and payable to the secretary, before taking credit for taxes already paid to a wholesaler.

6. As stated under the regulation pertaining to R.S. 47:304, the dealer or seller is permitted and required to state and collect the tax separately from the price paid by the purchaser, and the absorption of said tax as defined in this section by any retailer, wholesaler, manufacturer, or other supplier shall be punished by a fine of not more than \$2,000 or by imprisonment in the parish jail for not more than two years.

B. Exceptions. Not all dealers are required to file returns on a monthly basis.

1. Upon registration, all dealers are required to file monthly returns. After the dealer has operated for a few months, and it is determined that the amount of tax liability averages less than \$100 per month, the dealer will be notified and permitted to file quarterly returns. Application to file quarterly is not necessary as notification is automatic once a determination is made by the secretary that such a filing procedure is in order. Quarterly returns should be filed on or before the 20th day of the first month of the next succeeding quarter. Irregular sales tax returns and use tax returns should be filed on or before the 20th day of the month following the month in which the tax becomes effective. The returns should be prepared in a manner that will enable the secretary to ascertain the correctness of the tax computed to be due. Accordingly, each line of the tax return should be completed, and all amounts not taxable should be identified.

2. A dealer may file returns using alternate filing periods. The method for filing shall be approved by the secretary before the method is used to file a return. If an alternate period filing method is approved for use, the number of short periods during a year must be greater than or equal to the number of long periods during that same year. At the beginning of each year the dealer must, after obtaining approval for the alternate period filing method, file with the secretary a calendar for the year showing the alternative filing

periods for that year. Amendments to approved calendars must be submitted for approval prior to the affected periods. The taxpayer's account shall be reviewed to determine if the taxpayer has correctly filed returns, according to the calendar submitted at the beginning of the year. If the taxpayer does not follow the approved alternate filing method, the returns for the year under review shall be converted to a calendar month basis and the taxpayer's request to use an alternate period filing method for the subsequent year will be denied. Alternate period returns shall be filed on or before the 20th day following the close of the alternate filing period. Failure to file on or before the due date, will subject the dealer to delinquency charges, loss of vendor's compensation, and other charges as prescribed by law.

C. **Advance Sales Tax.** The Louisiana sales tax law was amended in 1965, to require all manufacturers, wholesalers, jobbers, suppliers, and brokers of tangible personal property to collect an advance payment of sales taxes on sales of all tangible personal property, and such payment is required only as a means of facilitating collection of the sales tax. Previous to this amendment, such sales of tangible personal property were considered exempt for taxation since under the statute, wholesale sales were not taxable. Accordingly, these new dealers were required to register with the secretary in order to collect and remit an advance sales tax from the sale of all tangible personal property made to retail dealers who resell the property to final users and consumers. The advance payment of the Louisiana sales tax is required upon all sales of tangible personal property to other dealers unless, specifically exempted by statute, or Form LGST-9 is obtained and kept on file by the dealer making the sale. Exemption certificate LGST-9 will only be recognized if the dealer making the purchase of tangible personal property states that the purchases are for resale or further processing by wholesale dealers and manufacturers. Those businesses purchasing property for resale that qualify as "wholesale dealers" can be exempted from the payment of the advance tax.

1. A *Wholesale Dealer* is defined as one where 50 percent or more of his sales do not constitute retail sales as defined in the sales tax law. Sales made in interstate commerce (sales where property is delivered by the seller outside the state) do not constitute retail sales. R.S. 47:306 also provides exemptions for dealers in motor vehicles subject to license and title; lumber dealers; farm implement dealers; and mobile, motorized, self-propelled, earth moving and construction equipment dealers. Sales made to industrial users and/or to contractors are also added towards the 50 percent criteria for qualification as a wholesale dealer.

2. Manufacturers, wholesalers, jobbers, suppliers, and brokers of tangible personal property are required under this Section to report all sales made within the period of a calendar month or approved alternative filing period, and to remit the advance retail dealers' sales tax on their returns filed with the department. The department is not concerned with credit terms extended by manufacturers, wholesalers, jobbers, suppliers and brokers to their customers. The question of when the wholesaler should collect the advance sales tax is dependent upon the policy of the seller.

3. All dealers who have paid advance sales tax to a

manufacturer, wholesaler, jobber, or supplier shall deduct from the total tax collected by them upon the retail sale of the commodity, the amount of advance sales tax paid, provided tax paid invoices evidencing the payments are retained by the dealer claiming the refund or credit. If the advance tax so paid during any reporting period amounts to more than the tax collected by him for that period, the excess so paid shall be reported on the return as a credit. Each such credit return shall be accounted for independently by the Department of Revenue and Taxation, and a refund shall be issued to the dealer for each such credit return. In no case may the credit be applied against the taxes due for any other period, unless the credit is applied under the direction of the secretary.

4. Manufacturers, wholesalers, jobbers, and suppliers collecting advance sales taxes are entitled to vendor's compensation at the rate established by R.S. 47:306. The amount of compensation is computed as a percentage of the taxes so collected and remitted to the secretary, provided the return and payment are timely filed.

5. Parishes, municipalities, school boards, and other local governing bodies, except hereinafter set forth, which levy a sales tax are hereby prohibited from requiring manufacturers, wholesalers, jobbers, or suppliers to collect such taxes in advance from dealers to whom they sell.

6. The parish, municipal, school board or other local governing bodies of the parish in which the state capitol is located, Caddo Parish or any other parish having a population in excess of 200,000 are authorized to require manufacturers, wholesalers, jobbers, and suppliers to collect the taxes levied by them in advance from dealers to whom they sell provided the dealers and wholesalers, manufacturers, jobbers, and suppliers are domiciled in said parish. Such advance collections shall be subject to the same laws, rules, and regulations as are applicable to advance collections of state sales taxes; provided, however, that the taxes so collected shall be remitted to the parish, municipal, school board, or other local governing authority imposing the tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:306.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended LR 22:852 (September 1996).

John Neely Kennedy
Secretary

9609#032

RULE

Department of Revenue and Taxation Sales Tax Division

Motion Picture Rental Exemption (LAC 61:I.4409)

Under the authority of R.S. 47:305.9 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation, Sales Tax Division, has amended LAC 61:I.4409 pertaining to the exemption from tax of the rental of motion picture films.

The Department of Revenue has agreed with the theater operators and film distributors that certain contracts entered into by them are not rental agreements, but are joint ventures or partnerships. The department has amended the rule dealing with the definition of "lease or rental" found in LAC 61:I.4301 to reflect this agreement. The department also makes reference to this change in LAC 61:I.4409 in order to ease research for the taxpayer.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 44. Sales and Use Tax Exemptions

§4409. Motion Picture Film Rental

A. R.S. 47:305.9 provides a very limited exemption to the operators of motion picture theaters wherein the amount paid by operators to distributing agencies for the use of film are specifically exempted from the sales and use taxes imposed by this Chapter. Note that film is the only item covered by the exemption. Distributing agencies and suppliers for motion picture theaters are required to collect taxes on any other supplies or materials furnished to operators. Theaters are required to collect the tax on admissions.

B. Any distributing agent who fails to collect the tax imposed by this Chapter because of the exemption provided in this Section must be able to identify the motion picture theater operators to whom films were furnished. Failure of the distribution agency to maintain a complete record of transactions for which no taxes were collected can result in the dealer being held responsible for the tax.

C. In some cases, agreements between film distributors and theater operators may not be leases or rentals. LAC 61:I.4301.7 defines lease or rental and provides exceptions to the definition of lease or rental.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.9.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended LR 22:854 (September 1996).

John Neely Kennedy
Secretary

9609#030

RULE

Department of Revenue and Taxation Sales Tax Division

Nonprofit Organization Exemption (LAC 61:I.4418)

Under the authority of R.S. 47:305.14 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation, Sales Tax Division, has adopted LAC 61:I.4418 pertaining to the exemption from the tax for tangible personal property sold at or admission charges for events sponsored by certain nonprofit organizations.

This rule has been adopted to explain to the public the types of organizations that qualify for the exemption, the types of events that qualify, and the procedures that must be followed to receive the exemption.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 44. Sales and Use Tax Exemptions

§4418. Nonprofit Organizations; Nature of Exemption; Limitations; Qualifications

A. General. Events sponsored by domestic, civic, educational, historical, charitable, fraternal, or religious organizations, which are nonprofit are exempt from the sales or use tax for these events, on the condition that the proceeds from these events, less applicable expenses, are used for the furtherance of the purpose for which the organization was formed.

1. This exemption applies to sales of tangible personal property, admission charges, outside gate admission charges, and parking fees.

2. The organization must apply for the exemption for each event and the application must be genuine. The application is form R-1048.

3. If the exemption is approved, the secretary will provide a certificate of exemption for the specific event.

4. If the secretary denies the exemption, the organization may appeal to the Louisiana Board of Tax Appeals.

5. An *event*, as referred to in the statute, means an occurrence of relatively short duration with a scheduled beginning and ending date and/or time.

6. The purchase of items to be sold at these events is not exempt from the advance sales tax. In order to receive a credit for the tax paid on items to be sold at one of these exempt events, the organization would register with the department as an irregular filer and then file a sales tax return taking a credit for the sales tax paid on the purchases for resale.

B. Exceptions. The statute is very specific as to the type of organizations and events that qualify for the exemptions. There are some exceptions that are referred to in the law.

1. If the event is intended to yield a profit to the promoter or to any individual contracted to provide services, or equipment, or both, for the event, the exemption shall not apply.

2. Nonprofit organizations are not exempt from sales or use taxes under this exemption, only from the collection of sales tax at certain events held by these organizations.

3. The statute does not offer an exemption from the sales and use taxes for regular commercial ventures such as, bookstores, restaurants, gift shops, commercial flea markets, and similar ventures that are operated by nonprofit organizations. The exemption applies to events that are not open on an ongoing basis.

4. Any organization which endorses any candidate for political office or is involved in political activities will not be eligible for the exemption.

5. The secretary may, at his discretion, recognize on-going activities, e.g. concession sales at schools, and allow the organization to file an annual exemption application for such activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.14.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 22:854 (September 1996).

John Neely Kennedy
Secretary

9609#029

RULE

Department of Revenue and Taxation Sales Tax Division

Rental Exemption Definitions (LAC 61:I.4301)

Under the authority of R.S. 47:301(7) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation, Sales Tax Division, has amended LAC 61:I.4301 pertaining to the definition of lease or rental.

The Department of Revenue and Taxation has determined along with exhibitors (motion picture theater owners) and motion picture distributors that certain contracts entered into by the parties do not fall under the definition of a lease or rental. These contracts have evolved over the years from agreements that simply charge an amount per day or showing for the use of the film, to contracts that specify many different conditions, such as, the number of times the film is shown, the amount charged to the patrons, and the type of facilities in which the film is to be shown. The amendment is not specific to agreements between theater owners and distributors but addresses any contract of this nature. A reference is made in LAC 61:I.4409, which is the rule dealing with the exemption for motion picture film rental.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 43. Sales and Use Tax

§4301. Definitions

* * *

1. - 6. ...

7. *Lease or Rental*

a. General. The terms *lease or rental* as used in this Chapter have the commonly accepted meaning, that is, the granting of possession or use of tangible personal property by the owner thereof to another person for a consideration without the transfer of title to the property. Re-leases or sub-leases and re-rentals or sub-rentals are also considered as leases or rentals.

b. Exceptions. Some arrangements or agreements for the use of tangible personal property, whether specifically mentioned in the statute or implied by the nature of the

agreement or arrangement, are not considered leases or rentals. The types arrangements or agreements that are not defined as leases or rentals are:

(i). the lease or rental for re-lease or re-rental of property to be used in connection with the operating, drilling, completion, or reworking of oil, gas, sulphur, or other mineral wells. The lease or rental for re-lease or re-rental of casing tools, pipe, drill pipe, tubing, compressors, tanks, pumps, power units, and other drilling or related equipment qualifies for exclusion if the property is to be used for one of the specified purposes. The re-lease or re-rental to the ultimate user is not exempt.

(ii). the lease or rental of property with an operator. When the owner of the property exerts control over the property by the furnishing of an operator, he is in fact performing a service and not leasing or renting. As an example, the owners of various types of equipment such as boats, draglines, trucks, tractors, or automobiles may furnish the equipment to the user complete with an operator. In this situation, the owner of the equipment is performing a service, even though the person paying the fee directs the specific use of the equipment. The owner, through furnishing the operator, has retained sufficient control over the property to remove it from the rented or leased category. The fact that a separate charge is made for the salary of the operator is immaterial. This is not to say that when the owner of the property furnishes advisory or engineering personnel, with or without charge, to the lessee that the agreement would not qualify as a lease or rental. For instance, the fact that a computer manufacturer furnished a full-time engineer, a full-time programmer, and a full-time computer operator to an installation having its own programmers and operators would not change the nature of the lease covering the equipment. Similarly, an engineer or superintendent furnished with the equipment does not alter the rental charges for use of the equipment, if the owner would be unable to operate the equipment without personnel furnished by the lessee.

(iii). agreements, joint ventures, arrangements, or partnerships between exhibitors (movie theater operators) and film distributors that place significant restrictions on the use of the movies and on the proceeds from the use of the movies. For example, an agreement between an exhibitor and a film distributor that stipulates that the proceeds from the showing of the film are to be shared, but also specifies the amount to be charged to the movie patron, the number of and/or the time of showings, or the types or sizes of the facilities where the film is shown would not qualify as a lease or rental because of the restrictions placed on the parties.

8. - 21. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:301.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 13:107 (February 1987), amended LR 21:957 (September 1995), LR 22:855 (September 1996).

John Neely Kennedy
Secretary

9609#031

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Physically Challenged—Hunter Permit (LAC 76:XIX.105)

The Wildlife and Fisheries Commission does hereby promulgate rules governing the issuance and methods by which disabled hunters permits will be issued.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting

Chapter 1. Resident Game Hunting Seasons

§105. Physically Challenged Hunter Permit

A. Definitions

ATV—a small motorized vehicle designed for off road use, weighing less than 600 pounds, designed for no more than two passengers, with a maximum of six wheels, and tires with a manufacturers recommended air pressure of less than 10 pounds per square inch.

Amputee of the Upper Extremity—an individual suffering the loss of at least one arm, hand, or five fingers from one hand.

Commission—the Louisiana Wildlife and Fisheries Commission.

Commission-Approved Physician—any physician licensed to practice medicine by the Louisiana State Board of Medical Examiners who evaluates permit applicants to determine the disabled hunter rule classification of permanent disability.

Department—the Louisiana Department of Wildlife and Fisheries.

Disabled Hunter Oversight Committee—a committee of five individuals which collectively have final authority to approve or deny, by majority vote, rejected applications for disabled hunter permits. The five members of the committee shall be appointed by the commission from the Louisiana Outdoorsmen With Disabilities Inc., Louisiana Handicapped Sportsmen, Inc., the Wildlife Division, the Enforcement Division, and the commission.

Disabled Hunter Permit—a permit issued by the Department of Wildlife and Fisheries to qualified disabled individuals.

Disabled Hunter Review Board—a board of five individuals which collectively review and approve or reject, by majority vote, applications for disabled hunter permits. The board shall be selected by the commission with recommendations from: the Louisiana Outdoorsmen with Disabilities Inc. (two recommendations), Louisiana Handicapped Sportsmen, Inc. (two recommendations), and the Louisiana Department of Health and Hospitals (one recommendation).

Enforcement Division—the Enforcement Division of the Louisiana Department of Wildlife and Fisheries.

Handicap ATV Permit—a permit issued by the Wildlife Division to certain disabled hunters to allow access to the specially designated handicapped ATV trails on Wildlife

Management Areas.

Helper—an individual who accompanies a permitted disabled hunter to assist the disabled hunter in accessing a hunting area, carrying hunting gear, and retrieving harvested game.

Mobility Impaired—a permanent disability caused by injury, illness, or birth defect that prevents an individual from walking farther than very short distances (less than 150 yards) even with the help of mechanical aids.

Permanent Disability—a qualifying disability that a commission approved physician, the Disabled Hunter Review Board, and the Wildlife Division or the Disabled Hunter Oversight Committee have determined will not improve over time or with medical treatment.

Special Deer Season—a special deer season only for individuals with valid disabled hunter permits established by the Louisiana Wildlife and Fisheries Commission.

Special Handicapped Hunt—special hunt or hunts on certain W.M.A.s only for individuals with valid disabled hunter permits.

W.M.A.—a tract of land managed by the Louisiana Department of Wildlife and Fisheries and proclaimed as a Wildlife Management Area by the governor of Louisiana.

Wheelchair Bound—a permanent disability that prohibits mobility by any means other than a wheelchair.

Wildlife Division—the Wildlife Division of the Louisiana Department of Wildlife and Fisheries.

B. Wheelchair Bound

1. Qualifications

a. Permanent Disability. The disability must permanently confine the applicant to the use of a wheelchair. If the applicant may eventually recover enough to not require the use of a wheelchair, he or she does not qualify for this class permit. If the future prognosis is uncertain, the applicant does not qualify at this time.

b. Certification by Commission Approved Physician
i. Applicants must be certified permanently disabled and confined to a wheelchair by:

- (a) a commission approved physician;
- (b) the Disabled Hunter Review Board; and
- (c) the Wildlife Division.

ii. Should the commission approved physician determine the applicant is not permanently confined to a wheelchair for medical reasons, the application is rejected and no permit shall be issued. If approved by the physician, the application must then be approved by the Wildlife Division and the Disabled Hunter Review Board. Should either reject the application, it shall be forwarded to the Disabled Hunter Oversight Committee which shall make the final determination to approve or reject the application.

c. Disqualification

i. Applicants not disabled sufficiently to meet the confined to a wheelchair criterion shall not qualify for this class permit.

ii. Applicants with felony convictions or Class II or above wildlife convictions, as determined by the Enforcement Division, shall not be issued permits.

2. Approved Applicants Receive the Following Considerations

a. Special Handicapped Hunts. May participate in special W.M.A. hunts.

b. Special Deer Seasons

i. May participate in special statewide handicapped hunts.

ii. May take either-sex deer on private lands statewide during the entire gun deer season and during the muzzle loader season. This provision does not include W.M.A.'s, National Wildlife Refuges, Kisatchie National Forest, or other federal properties.

c. Crossbow. May use a crossbow to archery hunt during the statewide archery season.

d. Access To Wildlife Management Areas. Upon request, permittees of this class shall receive a handicap ATV permit/sticker for access to specially designated ATV trails on W.M.A.s.

e. Hunting from Vehicles. May hunt resident game from a stationary vehicle or stationary boat statewide, provided that this activity does not violate state or parish laws.

f. Helpers. Permittee may be accompanied by helpers as necessary to get to and from a hunting area or stand and to assist in retrieving harvested game. Helpers may not use or possess firearms/bows/crossbows when acting as a helper unless the weapon is legal for the game hunted and the season is open to all licensed hunters in the area the helper is hunting.

3. Conditions of Approval

a. Nontransferable. The disabled hunter permit is nontransferable and is valid for named permittee only.

b. Permit in Possession

i. The permit must be carried by named permittee at all times while hunting in the field or transporting game harvested under the permit.

ii. Permittee must, in addition to the permit, carry one other form of picture identification while hunting or transporting harvested game.

c. Helpers. Helpers accompanying handicapped hunters are not permitted to carry firearms/bows/crossbows except as provided for by statewide or W.M.A. regulations. (See B.2.f.)

d. All Terrain Vehicles

i. ATVs may be used only on regular public ATV trails and handicapped ATV trails as specifically designated on W.M.A. maps.

ii. Approved individuals (permittees and helpers) may drive the ATV to a stand within 100 yards of an ATV trail. The ATV may also be used to retrieve the permittees harvested deer. Travel on an ATV beyond 100 yards of the designated trail, except to retrieve a deer, is prohibited.

iii. Permittee may not transport other nondisabled hunters or their harvested game, firearms/bows/crossbows or other equipment while on or within 100 yards of handicapped ATV trails.

e. Other Licenses Required. The issuance of a disabled hunter permit does not exempt the permittee from other license requirements. All applicable licenses required to hunt a particular species of game must be purchased and in the permittees possession while hunting.

f. Revocation

i. Any violation of the permit conditions by the permittee and/or helper of wildlife laws and/or regulations may result in cancellation of this permit.

ii. Should there be a change in the permittee's condition, the permittee must notify the Wildlife Division. If said change is sufficient to make the permanent use of a wheelchair unnecessary, the permit shall be revoked.

g. Duration

i. This permit is valid for the lifetime of named permittee or until revoked by the department.

ii. The department shall retain the right to change the duration and/or conditions of the disabled hunter permits to comply with future commission or legislative actions.

h. Cost: none.

C. Mobility Impaired

1. Qualifications

a. Permanent Disability

i. The disability must be permanent and impair the applicant sufficiently to preclude walking farther than very short distances (less than 150 yards) even with mechanical aids. If the applicant may eventually recover, he or she does not qualify. If the future prognosis is uncertain, the applicant does not qualify at this time.

ii. Qualifying disabilities under this class may include, but are not limited to:

(a). permanent and continual use of artificial limbs, crutches, leg braces, or canes due to injury, disease, or birth defect;

(b). defects of circulatory system, respiratory system, skeletal structure, or neurological disorders caused by disease, injury, or birth defect.

iii. Nonqualifying disabilities may include, but are not limited to:

(a). vision impairment;

(b). arm, hand, shoulder, or other impairments that do not effect walking;

(c). any impairment considered to be a part of or resulting from the normal aging process;

(d). any impairment resulting from or due to a lack of physical conditioning.

b. Certification by Commission Approved Physician

i. Applicants must be certified permanently disabled and mobility impaired by:

(a). a commission approved physician;

(b). the Disabled Hunter Review Board; and

(c). the Wildlife Division.

ii. Should the commission approved physician determine the applicant is not permanently mobility impaired, the application is rejected and no permit shall be issued. If approved by the physician, the application must then be approved by the Disabled Hunter Review Board and the Wildlife Division. Should either reject the application, it shall be forwarded to the Disabled Hunter Oversight Committee which shall make the final determination to approve or reject the application.

c. Disqualification

i. Applicants not disabled sufficiently to meet the mobility impaired criterion shall not qualify for the class permit.

ii. Applicants with felony convictions or Class II or above wildlife convictions, as determined by the Enforcement Division, shall not be issued permits.

2. Approved Applicants Receive the Following Considerations

a. Special Handicapped Hunts. May participate in special W.M.A. hunts.

b. Special Deer Seasons. May participate in special statewide handicapped hunts.

c. Access To Wildlife Management Areas. Upon request, permittees of this class shall receive a handicap ATV permit/sticker for access to specially designated ATV trails on W.M.A.s.

d. Helpers. Permittee may be accompanied by helpers as necessary to get to and from the hunting area or stand and to assist in retrieving harvested game. Helpers may not use or possess firearms/bows/crossbows when acting as a helper unless the weapon is legal for the game hunted and the season is open to all licensed hunters in the area the helper is hunting.

3. Conditions of Approval

a. Nontransferable. The disabled hunter permit is nontransferable and is valid for named permittee only.

b. Permit in Possession

i. The permit must be carried by named permittee at all times while hunting in the field or transporting game harvested under the permit.

ii. Permittee must, in addition to the permit, carry one other form of picture identification while hunting or transporting harvested game.

c. Helpers. Helpers accompanying handicapped hunters are not permitted to carry firearms/bows/crossbows except as provided for by statewide or W.M.A. regulations. (See C.2.d.)

d. All Terrain Vehicles

i. ATVs may be used only on regular public ATV trails and handicapped ATV trails as specially designated on W.M.A. maps.

ii. Permittee may not transport other nondisabled hunters or their harvested game, firearms/bows/crossbows or other equipment while on handicapped ATV trails.

e. Other Licenses Required. The issuance of a disabled hunter permit does not exempt the permittee from other license requirements. All applicable licenses required to hunt a particular species of game must be purchased and in the permittees possession while hunting.

f. Revocation

i. Any violation of the permit conditions by the permittee and/or helper of wildlife laws and/or regulations may result in cancellation of the permit.

ii. Should there be a change in the permittee's condition, the permittee must notify the Wildlife Division. If said change is sufficient to enable the permittee to walk more than 150 yards, the permit shall be revoked.

g. Duration

i. This permit is valid for the lifetime of named permittee or until revoked by the department.

ii. The department shall retain the right to change the duration and/or conditions of the disabled hunter permits

to comply with future commission or legislative action.

h. Cost: none.

D. Amputee of the Upper Extremity

1. Qualifications

a. Permanent Disability. The applicant must have an amputation of at least one arm, hand, or all five fingers of one hand to qualify for a permit of this class.

b. Certification by Commission Approved Physician

i. Applicants must be certified permanently disabled as an amputee of the upper extremity by a commission-approved physician.

ii. Should the commission approved physician determine the applicant is not an amputee of the upper extremity, the application shall be rejected. If approved by the physician, the application must then be approved by the Disabled Hunter Review Board and the Wildlife Division. Should either reject the application, it shall be forwarded to the Disabled Hunter Oversight Committee which shall make the final determination to approve or reject the application.

c. Disqualification

i. Applicants not disabled sufficiently to meet the amputee of the upper extremity criterion shall not qualify for this class permit.

ii. Applicants with felony convictions or Class II or above wildlife convictions, as determined by the Enforcement Division, shall not qualify for this permit.

2. Approved Applicants Receive the Following Considerations

a. Special Handicapped Hunts. May participate in special W.M.A. hunts.

b. Special Deer Seasons. May participate in special statewide handicapped hunts.

c. Access to Wildlife Management Areas. Upon request, permittees of this class shall receive a handicap ATV permit/sticker for access to specially designated ATV trails of W.M.A.s.

d. Crossbow. May use a crossbow to archery hunt during the statewide archery season.

e. Helpers. Permittee may be accompanied by helpers as necessary to get to and from the hunting area or stand and to assist in retrieving harvested game. Helpers may not use or possess firearms/bows/crossbows when acting as a helper unless the weapon is legal for the game hunted and the season is open to all licensed hunters in the area the helper is hunting.

3. Conditions of Approval

a. Nontransferable. The disabled hunter permit is nontransferable and is valid for named permittee only.

b. Permit in Possession

i. The permit must be carried by named permittee at all times while hunting in the field or transporting game harvested under the permit.

ii. Permittee must, in addition to the permit, carry one other form of picture identification while hunting or transporting harvested game.

c. Helpers. Helpers accompanying handicapped hunters are not permitted to carry firearms/bows/crossbows except as provided for by statewide or W.M.A. regulations. (See D.2.d.)

d. All Terrain Vehicles

i. ATVs may be used only on regular public ATV trails and handicapped ATV trails as specially designated on W.M.A. maps.

ii. Permittee may not transport other nondisabled hunters or their harvested game, firearms/bows/crossbows or other equipment while on handicapped ATV trails.

e. Other Licenses Required. The issuance of a disabled hunter permit does not exempt the permittee from other license requirements. All applicable licenses required to hunt a particular species of game must be purchased and in the permittees possession while hunting.

f. Revocation. Any violation of the permit conditions by the permittee and/or helper of wildlife laws and/or regulations may result in cancellation of this permit.

g. Duration

i. This permit is valid for the lifetime of named permittee or until revoked by the department.

ii. The department shall retain the right to change the duration and/or conditions of the disabled hunter permits to comply with future commission or legislative action.

h. Cost: none.

AUTHORITY NOTE: Promulgated in accordance with Act 1226 of the 1995 Louisiana Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:856 (September 1996).

Glynn Carver
Chairman

9609#053

RULE

**Department of Wildlife and Fisheries
Office of Fisheries**

Pompano Permit (LAC 76:VII.703)

The Department of Wildlife and Fisheries does hereby amend the regulations governing the Pompano Permit Program. These regulations are required to effectuate the requirements of Act 1316 of the Regular Legislative Session. Authority for adoption of this rule is included in R.S. 56:406.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 7. Experimental Fisheries Program

§703. Pompano Permits

A. Harvest Regulations

1. Possession of a permit does not exempt the bearer from laws or regulations except for those which may be specifically exempted by the permit. Violation of a law pertaining to fishing, which carries a Class II penalty or greater shall constitute a violation of the permit.

2. Information gained by the department through the issuance of a permit is not privileged and will be disseminated to the public.

3. The bearer of a permit shall report monthly the catch

and effort under the permit, even when catch or effort is zero. This report shall contain total catch, effort, and other parameters which may be required by the department. A report shall be received by the department no later than 10 days following the last day of each month.

4. When operating under the conditions of a permit, only pompano can be retained. All other species shall be immediately returned to waters from which they were caught. No other fish may be in the possession of the permittee and all fish on board the permitted vessel shall have the head and caudal fin (tail) intact.

5. The permittee shall have the permit in possession at all times when using permitted gear or harvesting permitted specie(s). Permit holder shall be on board permitted vessel when operating under conditions of permit. No permit is transferrable without written permission from the department secretary.

6. When permitted gear is on board permitted vessel or in possession of permittee, permittee and vessel are assumed to be operating under conditions of the permit. No gear other than permitted gear may be on board or in possession of permittee.

7. Any violation of the conditions of the permit shall result in the immediate suspension of the permit, and may result in the permanent revocation of the permit.

8. For permitting purposes, a pompano net shall be defined as a pompano strike net not exceeding 2,400 feet in length and not smaller than 2½ inches bar or 5 inches stretched mesh, that is not anchored or secured to the water bottom and that is actively worked while being used. A pompano net shall not be constructed of monofilament.

9. The permitted boat used in the program shall have a distinguishing sign so that it may be identified. The sign shall have the operator's permit number printed on it in at least 8-inch high letters on a contrasting background so as to be visible from low flying aircraft or from any other vessel in the immediate vicinity.

10. Pompano strike nets may be used during the period from August 1 through October 31 of each year in waters in excess of 7 feet in depth and beyond 2,500 feet from land (excluding islands) within the Chandeleur and Breton Sound area described in R.S.56:406(A)(2).

11. No person shall fish under this permit during the hours after sunset and before sunrise. No person shall fish under this permit on Saturday or Sunday of any week during the open season, or on Labor Day.

12. Each pompano strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the permit number of the permit issued to commercially take pompano. The department shall not issue any tag to a person who does not have a social security number.

13. The department reserves the right to observe the operations taking place under the permit at any time and permittee shall be required to provide food and lodging on the permitted vessel for an observer at the request of the department.

14. All permittees shall notify the department prior to leaving port to fish under permitted conditions and

immediately upon returning from permitted trip. The department shall be notified by calling a designated phone number.

B. Qualification for Permit

1. All permits shall be applied for and/or granted from January 1 to April 30 of each year. All permits expire December 31 following the date of issuance. All permits shall be returned to the department by January 31 following expiration.

2. Permits shall not be issued to any applicant who within three years of the date of his application, has been convicted or pled guilty to a Class II or greater fishery violation, as defined in the laws pertaining to wildlife and fisheries.

3. Applicants who have been convicted of, or have pled guilty to, two or more Class II or greater fishery violations within five years of the application date shall not receive a permit.

4. All potential permittees shall request an appointment by contacting Marine Fisheries Division personnel at 1600 Canal Street, New Orleans. Proof of ownership of the proposed permitted vessel(s) and proof that all applicable licenses have been applied for shall be provided at the time of appointment. Proof of bona fide residency, as defined in R.S. 56:8(12), is also required at this time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:406A(3).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:119 (February 1986), amended LR 12:846 (December 1986), amended by the Department of Wildlife and Fisheries, Office of Fisheries, LR 16:322 (April 1990), LR 22:859 (September 1996).

James H. Jenkins, Jr.
Secretary

9609#059

RULE

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

Reef Fish Daily Take and Size Limits (LAC 76:VII.335)

The Secretary of the Department of Wildlife and Fisheries, acting under authority granted by the Louisiana Wildlife and Fisheries Commission by resolution dated February 8, 1996 does hereby amend a rule (Title 76:VII.335.G.1) raising the minimum size limit for red snapper harvested commercially, which is part of the existing rule for daily take, possession, and size limits for reef fishes set by the commission. Authority for adoption of this rule is included in R.S. 56:6(25)(a), 56:326.1 and 56:326.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§335. Daily Take, Possession and Size Limits Set by Commission, Reef Fish

* * *

G. Species	Minimum Size Limits
1. Red Snapper	15 inches total length (commercial) 15 inches total length (recreational)

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:326.1 and 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996).

James H. Jenkins, Jr.
Secretary

9609#060

RULE

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

**Timken Wildlife Management Area Visitor
(LAC 76:III.327)**

The Wildlife and Fisheries Commission hereby adopts a rule establishing visitor regulations for Timken Wildlife Management Area.

Title 76

WILDLIFE AND FISHERIES

Part III. State Game and Fish Preserves and Sanctuaries

Chapter 3. Particular Game and Fish Preserves and Commissions

§327. Timken Wildlife Management Area

A. Visitors Regulations

1. Morning hunting only on all game (closed 12 noon). All nighttime activities prohibited (including frogging) from 30 minutes after official sunset to one and one-half hours before sunrise.

2. Basic resident and nonresident hunting licenses will serve as season permits on Timken Wildlife Management Area (hereinafter "Timken"). If daily permits are required, they may be obtained from permit stations located on or near Timken. Hunters must check out daily one-half hour after the end of the legal shooting hours.

3. All hunting seasons are set by the Louisiana Wildlife and Fisheries Commission and seasons may be altered or closed anytime by the department in emergency situations (floods, disease outbreaks or other critical circumstances).

4. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms are not allowed in boats under motor power on Timken. Firearms may not be carried on any area before or after permitted hours. Bows and arrows are not permitted on Timken except during regular archery season or except as permitted for bowfishing. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists. Loaded firearms are not permitted near check stations or headquarters

facility. Target shooting and other forms of practice shooting are prohibited on Timken.

5. Construction of and hunting from permanent blinds on Timken is prohibited. Any permanent stand or permanent blind will be destroyed. A permanent blind or stand is defined as any structure and/or material, including vegetation, used for concealment while hunting, that is not completely dismantled or removed from the wildlife management area daily. All waterfowl hunters must dismantle blinds and remove decoys within 30 minutes after close of shooting hours. Unattended decoys will be confiscated and forfeited to the Department of Wildlife and Fisheries (hereinafter "department") and disposed of by the department.

6. Except for bird hunting, duck hunting, and rabbit hunting when allowed, having or using dogs on Timken is prohibited. Only recognizable breeds of bird dogs and retrievers are permitted for migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on Timken during experimental rabbit season.

7. Commercial fishing is prohibited.

8. Recreational Fishing

a. Shrimp may be taken by the use of cast nets only. During the inside open shrimp season 25 pounds per boat per day (heads on) shall be permitted. Size count to conform with open season requirements. During the inside closed season 10 pounds per boat per day, heads on may be taken for bait.

b. Oysters may be taken from natural reefs and opened at the site. A maximum of one gallon per boat is permitted and all shell must be thrown back onto the reef. Possession of unshucked oysters is not permitted. Taking of oysters on the reef is dependent upon Department of Health and Hospitals' approval and may be closed at any time by the department.

c. Fish may be taken by rod and reel or hand lines for recreational purposes only.

d. Crabs may be taken through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs are allowed per boat or vehicle per day.

e. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight.

f. The harvest of all fish, shrimp, oysters, crabs and crawfish are for recreational purposes only and any commercial use is prohibited.

9. Boats powered by internal combustion engines having horsepower ratings above 25 H.P. are permitted only in oil company access canals. Operation of the above described internal combustion engines in interior ditches are prohibited.

10. Pulling boats over levees, dams, or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited.

11. The use of airboats, aircraft, hover craft, all-terrain vehicles and all-terrain cycles and motorcycles are prohibited except as specifically authorized by department personnel.

12. Disorderly conduct or hunting under the influence of alcoholic beverages, chemicals and other similar substances

is prohibited. Possession of controlled dangerous substances (drugs) onto the wildlife management area is prohibited. All boats and vehicles are subject to search by authorized employees of the department at anytime.

13. Trapping is allowed only by written agreement with the department.

14. Burning of the marshes is prohibited. Water control structures are not to be tampered with or altered by anyone other than employees of the department at anytime. Damage to or removal of trees, shrubs and wild plants on Timken without prior approval is prohibited.

15. No littering allowed.

16. Violation of any part of this section constitutes a class two violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 et seq. and 56:109.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:860 (September 1996).

Glynn Carver
Chairman

9609#061

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Waddill Wildlife Refuge (LAC 76:III.325)

The Wildlife and Fisheries Commission hereby adopts a rule establishing visitor regulations for Waddill Wildlife Refuge.

Title 76

WILDLIFE AND FISHERIES

Part III. State Game and Fish Preserves and Sanctuaries

Chapter 3. Particular Game and Fish Preserves and Commissions

§325. Waddill Wildlife Refuge

A. Purpose. Waddill Wildlife Refuge will be actively managed as a wildlife educational and learning area for youth groups, nonconsumptive users, and as a hunter safety and aquatic education training center. The following rules and regulations concerning the management, protection and utilization of this refuge have been adopted by the Louisiana Wildlife and Fisheries Commission. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the refuge.

B. General

1. Access to the refuge will only be allowed through the front entrance bordering Flannery Road. All visitors will sign the register at the front office. A group of individuals may have a representative sign for the group by indicating the number in the group. Individuals less than 16 years of age must be accompanied and supervised by a person 18 years of age or older.

2. Vehicles are allowed only in designated areas and must park in provided spaces. ATVs, trail bikes, horses and

Notices of Intent

NOTICE OF INTENT

Department of Economic Development Board of Examiners of Certified Shorthand Reporters

Transcript Format Guidelines (LAC 46:XXI.1101)

Under authority of R.S. 37:2551 and with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Board of Examiners of Certified Shorthand Reporters is amending Part XXI of the Louisiana Administrative Code. This rule amends the established transcript format guidelines.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXI. Certified Shorthand Reporters

Chapter 11. Court Reporting Procedures

§1101. Transcript Format Guidelines (Freelance Reporters)

A. Every freelance certified reporter shall use the following transcript format rules on every deposition transcript prepared by that reporter:

1. Transcripts shall contain no fewer than 25 typed lines on standard 8½ x 11 paper exclusive of page numbers and footers.

2. Transcripts shall contain no fewer than eight characters to the typed inch.

3. The distance between the left and right margins shall be no less than 6⅞ inches.

4. Each question and answer shall begin on a separate line.

5. Either of the following may be used:

a. Each question and answer shall begin no more than five spaces from the left-hand margin. The text shall begin no more than five spaces following the question and answer. Carryover question and answer lines shall begin at the left-hand margins.

b. Block Version. Each question and answer shall begin at the left-hand margin. The text shall begin no more than five spaces following the question and answer. Carryover question and answer lines shall begin no more than six spaces from the left-hand margin.

6. Either of the following may be used:

a. Colloquy material shall begin no more than 15 spaces from the left-hand margin, with carryover lines commencing no more than 10 spaces from the left-hand margin.

b. Colloquy material shall begin with the speaker ID on a separate line no more than 10 spaces from the left-hand margin. The actual text shall begin on the next line 15 spaces from the left-hand margin, with carryover lines no more than 12 spaces from the left-hand margin.

7. Quoted material shall be treated in the same manner as either question and answer (options 5a or 5b) or colloquy

mules are strictly prohibited. Restricted areas will be established for specific activities and visitors will not enter these areas unless they are part of the specific activity allowing access to that area.

3. All dogs are prohibited unless participating in a department-sponsored activity, such as a retriever demonstration during an educational activity. All dogs running at large are prohibited; and the owner or handler of said dogs will be held liable for any personal injury or property damage, and will be subject to criminal citation.

4. Citizens are cautioned that by entering the refuge they or their vehicles may be subject to license checks, inspections and searches. Wildlife officers will have the duty and right to restrict access to the refuge as necessary.

5. Refuge hours will be set by the Department of Wildlife and Fisheries (hereinafter "Department") and will be posted at the entrance. All visitors will abide by the posted hours. Educational activities may be held outside the normal open hours of the refuge by prior arrangement and permission of the Department. All participants of these activities will confine their use of the refuge to the designated area of the activity.

6. Hunting, pursuing, killing, molesting, or intentionally disturbing any type of wildlife is prohibited; provided that the Department may conduct activities necessary to properly manage wildlife on the area.

7. Camping is prohibited; provided that the Department is authorized to establish and maintain specific camping areas for use by organized groups under policy established by the Department. If areas are established, they will not be used by the public.

8. Littering is prohibited. Visitors must remove their litter or place litter in appropriate litter disposal containers.

9. Damage to or removal of trees, shrubs, flowers, or wild plants is strictly prohibited.

10. The possession of firearms, bows, and controlled dangerous substances by the public on the refuge is prohibited; provided that the Department is authorized to construct, maintain and operate ranges, in which case, shotguns and bows will be permitted under guidelines developed by the Department.

11. Access to all nature trails is limited to pedestrians only. No vehicles, ATVs, trail bikes, horses or mules are allowed. Individuals utilizing the nature trails must remain on the designated trail. No picnicking is allowed on the trails. All trash must be disposed of in designated litter containers.

12. Individual groups may submit written requests to reserve a specific part of the refuge for a special group event. The remaining unreserved portion of the refuge shall be open to the public.

13. Violation of any part of this section constitutes a class two violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 et seq. and 56:109.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:861 (September 1996).

Glynn Carver
Chairman

9609#062

material (options 6a or 6b). Quoted material shall be single spaced or double spaced.

8. Parentheticals and exhibit markings shall begin no more than 15 spaces from the left-hand margin with carryover lines commencing no more than 15 spaces from the left-hand margin.

9. There shall be no numbered lines that are blank on a transcript page, excluding the last page of a transcript, title page, contents page, appearance page, stipulation page and certificate pages.

B. The board recognizes that technological advances in the court reporting profession may from time to time require the board to render advisory interpretations of the foregoing transcript format guidelines or may require modification of them in response to innovations and the evolving technology in court reporting. Technological advances are desirable and should be encouraged. The board needs a mechanism to accommodate technological changes while also maintaining enforceable standards to protect the profession from abuses in court reporting. The board hereby acknowledges its authority to issue advisory opinions on a case-by-case basis in response to petitions for declaratory orders and rulings in order to take account of technological innovation, customary practices, and unanticipated questions or ambiguities in the application of the foregoing transcript format guideline. Any interested person may petition the board for a declaratory order or ruling in writing no less than 30 days prior to a board meeting. If timely filed, the matter will be placed on the agenda for discussion at the board's next meeting and will be finally disposed of by the board within 90 days after the meeting. Further review of such final disposition by the board may be sought in the same manner as review of agency decisions or orders in adjudicated cases, as provided in R.S. 49:962.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2551.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 21:548 (June 1995), amended LR 22:

Interested persons may submit written or oral comments to Gay M. Pilié, Executive Director, Board of Examiners of Certified Shorthand Reporters, 325 Loyola Avenue, Suite 306, New Orleans, LA 70112, (504) 523-4306. Comments will be accepted through the close of business on October 10, 1996.

Gay M. Pilié
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Transcript Format Guidelines**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be a one time cost of \$100 to the Certified Shorthand Reporters' Board to publish the rule in the *Louisiana Register*.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no anticipated effect on revenue to state governmental units.

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

This rule will amend the transcript format guidelines and may correct the reduction of income that was made with the original rule. This rule will increase the number of pages in the transcript slightly by changing the pitch and margins, therefore making the transcript more legible. It also may reduce the loss of income for court reporters that the original rule caused and may increase the costs of the transcript for attorneys. Since the rule requires a uniform transcript for all freelance transcripts, this will allow the attorney to shop around for lower prices and not allow misrepresentation since the price per page will represent a uniform product.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no anticipated effect on competition or employment due to the proposed rule.

Gay Pilié
Executive Director
9609#001

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Economic Development Corporation**

**Award Program—Infrastructure Financing
(LAC 19:VII.Chapter 91)**

In accordance with R.S. 51:2312.1, notice is hereby given that the Department of Economic Development, Board of the Louisiana Economic Development Corporation, proposes to implement rules and regulations for the Economic Development Award Program.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

This proposed rule is scheduled to become effective January 20, 1997, or as soon thereafter, as is practical upon publication in the *Louisiana Register*. Interested persons may comment on the proposed rules in writing until October 30, 1996, to Brett Crawford, Executive Director, Economic Development Corporation, Box 94185, Baton Rouge, LA 70804 or 101 France Street, Suite 312, Baton Rouge, LA 70802.

Brett Crawford
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Award Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The implementation costs are projected to be \$5,020,200 in FY 96/97, \$5,021,000 in FY 97/98 and \$5,021,900 in FY

NOTICE OF INTENT

Department of Economic Development Economic Development Corporation

Small Business Loan Program—Loan Policies (LAC 19:VII.Chapter 1)

98/99. Of those costs, 99.6 percent will be funded through state general fund appropriations to LEDC, with the remaining costs borne by LEDC's dedicated fund operating budget and by DED under its general fund operating appropriation. The project monitoring costs to local governments are projected to be \$100,000 per year. Recurring operation and maintenance costs associated with publicly-owned infrastructure investments will be borne by the government units owning the projects. Project approval will be contingent upon evidence that monitoring costs and recurring public operation and maintenance costs will be more than offset by additional public revenues generated by the project.

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

State revenue collections are anticipated to increase, at a minimum, by \$3,000,000 for projects approved in each of the three years forecast (stated in terms of the present value of revenue collections in future years). Local government revenue collections are anticipated to increase, at a minimum, by \$2,000,000 for projects approved in each of three years (also stated in terms of the present value of revenue collections in future years).

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

Approximately 8-12 Louisiana businesses annually will benefit directly from improved and/or expanded infrastructure, access to low-cost infrastructure investment funds, enhanced and/or expanded production capacity, and increased sales and profitability, at a cost of some additional planning and paperwork requirements associated with the application process, quarterly performance reports, and invoices for reimbursement, as well as operation and maintenance costs associated with privately owned infrastructure investments. Louisiana employees will benefit from reduced unemployment and risk of unemployment. Public sponsoring entities will incur additional planning and paperwork costs associated with their role, as well as operation and maintenance costs associated with publicly owned infrastructure investments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The program has as one of its basic intents the goal of reducing unemployment and the risk of future unemployment by assisting businesses to enhance/increase their production capacity in the state and providing an incentive to companies to invest in the creation and retention of high value-added jobs. The competitiveness of Louisiana businesses should be enhanced as companies benefit from the efficiency gains achieved by the infrastructure investments, and as the internal and external markets for Louisiana products and services grow in response to the capital supply shock associated with the investments. In addition, no preferential treatment will be given to out-of-state companies seeking to locate in Louisiana, relative to the assistance available to in-state companies.

Brett Crawford
Executive Director
9609#072

John R. Rombach
LegislativeFiscal Officer

Under the authority of R.S. 51:2341-51:2344 as amended in Acts 1992, Number 1136, notice is hereby given that the Department of Economic Development, Board of the Economic Development Corporation proposes new rules concerning a loan guaranty program for small business.

The rules repeal and replace LAC 19:VII.Subpart 3, Small Business Equity Program, Chapter 7, Chapter 9, and LAC 19:VII,Subpart 1, Minority and Women Business Development Program, Chapters 1-13.

Acts 1992, Number 1136, s1, eliminated references to the Louisiana Minority and Women's Business Development Program and authorizes the Louisiana Economic Development Corporation to serve as the single review board for all financial assistance, grants, and investment programs administered by the Department of Economic Development, excluding those financial incentive programs administered by the State Board of Commerce and Industry.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

This proposed rule is scheduled to become effective January 20, 1997, or as soon thereafter, as is practical upon publication in the *Louisiana Register*. Interested persons may comment on the proposed rules in writing until October 30, 1996, to Brett Crawford, Executive Director, Economic Development Corporation, Box 94185, Baton Rouge, LA 70804 or 101 France Street, Suite 312, Baton Rouge, LA 70802.

Brett Crawford
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Small Business Loan Program

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

The total implementation cost of the proposed rules for fiscal year 1996-1997 is estimated at \$170,000; \$328,300; and \$437,600, respectively, over the first three years, which reflects the portion of LEDC's current administrative costs needed to operate the program as well as anticipated loan losses. However, this will not represent an increase in LEDC's operating budget due to the fact that the program has been in existence and operating since FY 93.

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

LEDC's self-generated revenues from its guarantee fees and application fees will increase as LEDC's loan guarantees increase. Based on past revenue collections, it is estimated that collections for FY 96-97 will total about \$102,000. This estimate is based on guarantee and application fees on an allocation of \$5,000,000 available for loan guarantees and participations.

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

The program will benefit small and medium sized business owners by making available capital for expansions that would not ordinarily be available. The small business owners will in turn be able to create and preserve jobs. The Louisiana Economic Development Corporation will be able to leverage its funds and increase its private capital contribution. A guarantee fee of .5 - 2 percent and an application fee of \$100 will be collected by LEDC, per application. It is estimated that 30- 40 businesses will be assisted per year. The program will also benefit small, economically disadvantaged businesses by offering a guarantee feature in the program that enables this segment of the state's population to gain access to business financing that would otherwise be unavailable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since this program does not make direct loans, it is not in direct competition with the private sector. Therefore, the program will not negatively affect private sector employment or be in direct competition with other government programs. Competition will likely be enhanced by the addition of markets for goods and services resulting from the small businesses to be assisted. The program will promote competitiveness within the financial service industry. Because economic development is the purpose of the program, net new jobs will be created through the development of new and expanded businesses.

Brett Crawford
Executive Director
9609#074

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Economic Development Corporation**

**Workforce Development and Training
Program—Workforce Development
(LAC 19:VII.Chapter 81)**

In accordance with R.S. 51:2331, notice is hereby given that the Department of Economic Development, Board of the Economic Development Corporation, proposes to implement rules and regulations for the Economic Development Award Program.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

This proposed rule is scheduled to become effective January 20, 1997, or as soon thereafter, as is practical upon publication in the *Louisiana Register*. Interested persons may comment on the proposed rules in writing until October 30, 1996, to Brett Crawford, Executive Director, Economic Development Corporation, Box 94185, Baton Rouge, LA 70804 or 101 France Street, Suite 312, Baton Rouge, LA 70802.

Brett Crawford
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Workforce Development and Training
Program**

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

The implementation costs are projected to be \$6,518,000 in FY 96/97 and \$10,529,700 in FY 97/98. Of those costs, 99.7 percent will be funded through a statutory dedication of vendors' compensation funds to LEDC, with the remaining costs borne by LEDC's dedicated fund operating budget and by DED under its general fund operating appropriation. Since the dedication of the vendors' compensation funds to LEDC is scheduled to sunset at the end of FY 97/98, the program is not projected to continue in FY 98/99. The cost to local governments is projected \$155,000 in FY 96/97 and \$250,000 in FY 97/98, representing project monitoring costs. These costs will be fully reimbursed by the state (capped at 5 percent of total project training awards) and are accounted for in the state implementation cost figure above.

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

State revenue collections are anticipated to increase, at a minimum, by \$3,970,000 for projects approved in FY 96/97 and \$6,387,000 for projects approved in FY 97/98 (stated in terms of the present value of revenue collections in future years). Local government revenue collections are anticipated to increase, at a minimum, by \$2,600,000 for projects approved in FY 96/97 and \$4,200,000 for projects approved in FY 97/98 (also stated in terms of the present value of revenue collections in future years).

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

Approximately 15-20 Louisiana businesses will benefit directly in FY 96/97 from additional training funds, better trained and more productive employees, and increased sales and profitability, at a cost of some additional planning and paperwork requirements associated with the application process, quarterly performance reports, and invoices for reimbursement. The number of business to be assisted will increase to 20-25 in FY 97/98. Louisiana employees will benefit from higher salaries, enhanced labor mobility, and reduced unemployment and risk of unemployment. Project monitoring entities will incur additional planning and paperwork costs associated with their role, all of which will be recovered by the entities under their legal agreements with LEDC.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The program has as its basic intent the goal of reducing unemployment and the risk of future unemployment by making workers more employable and providing an incentive to companies to invest in the creation and retention of high value-added jobs. The competitiveness of Louisiana businesses should be enhanced as employees become more productive and better equipped to adapt to rapid technological advances. In addition, no preferential treatment will be given to out-of-state companies seeking to locate in Louisiana relative to the assistance available to in-state companies.

Brett Crawford
Executive Director
9609#073

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Trust Authority Bylaws

The Tuition Trust Authority, the statutory body created by R.S. 17:3093, et seq., in compliance with R.S. 49:950 et seq. of the Administrative Procedure Act, advertises its intention to adopt bylaws to govern the authority, its meetings, officers and executive staff, order of business, committees, communications to the authority, rights, duties and responsibilities of the executive staff, responsibilities of authority members, amendment or repeal of bylaws, rules and regulations.

Part I

BYLAWS OF THE LOUISIANA TUITION TRUST AUTHORITY

Article I. Definitions and Authority

A. *The Louisiana Tuition Trust Authority*—as used in these Bylaws, shall refer to the statutory body created by R.S. 17:3093, et seq., and shall be composed of the members who are duly appointed and qualified as provided by law. The authority shall administer the Louisiana Student Tuition Assistance and Revenue Trust Program, commonly referred to as the "START Saving Program," through the Office of Student Financial Assistance.

B. *Chairman of the Authority*—as used in these bylaws, shall refer to the executive secretary to the governor or his/her designee to the Louisiana Student Financial Assistance Commission (LASFAC), who shall also serve as ex officio chairman of the authority.

C. *Office of Student Financial Assistance*—Louisiana Department of Education, or "office", refers to the organization created by R.S. 36:650 to perform the functions of the state relating to the programs of financial assistance and the certain scholarship programs for higher education in accordance with the directives of its governing bodies and applicable law.

D. *Division*—when used in these bylaws, shall refer to a subordinate organizational element of the Office of Student Financial Assistance.

E. *Executive Director*—as used in these bylaws, shall refer to that person duly appointed by the Louisiana Student Financial Assistance Commission pursuant to R.S. 17:3022B to serve in the unclassified service as executive director of the Office of Student Financial Assistance, who shall be its chief executive officer and the appointing authority for all classified employees of the office.

F. *Director*—as used in these bylaws, shall refer to that person appointed in the classified service as the administrative head of a division of the Office of Student Financial Assistance.

G. *Fiscal Officer*—as used in these bylaws, shall refer to that employee of the office assigned responsibility for preparation and monitoring the approved budget of the authority, who may jointly serve as a director.

Article II. Meetings

Section 1. *Regular Meetings*. The authority shall hold at least one but not more than 12 meetings per calendar year. All regular meetings shall be held at meeting places designated by the authority. Proxy voting shall be allowed at all meetings for the chairman of: State Board of Elementary and Secondary Education; Board of Supervisors, Louisiana State University; Board of Supervisors, Southern University; Board of Regents; University of Louisiana System and Louisiana Association of Independent Colleges and Universities, or each of their designees; however, any proxy holder must also be a member of that respective board. The State Superintendent of Education may vote by proxy through a member of his/her executive staff. No other members shall have the right of proxy voting.

Section 2. *Special Meetings*. Special meetings of the authority may be called by the chairman at any time, or by the secretary upon written request therefor signed by a majority of the members and specifying the purposes of the desired meeting. Written notification shall be sent to each member at least three calendar days before the time of the meeting.

Section 3. *Compensation*. Members of the authority shall receive per diem compensation for their service at the rate authorized by statute or as authorized by executive order, and shall be reimbursed for their necessary travel expenses actually incurred in the conduct of the business of the authority.

The authority is limited to 12 meetings per year for which per diem may be drawn by authority members.

Section 4. *Quorum*. A simple majority of the authority shall constitute a quorum for the transaction of any business, and a simple majority of the quorum present at any meeting voting in favor or against a particular item shall be the act of the authority.

Article III. Officers of the Authority and Executive Staff

Section 1. *Chairman and Vice-Chairman*. The chairman of the Louisiana Student Financial Assistance Commission shall serve as chairman of the Authority. The authority shall select a vice-chairman annually. The authority may elect such other officers as it deems necessary.

The chairman of the authority shall preside over all meetings of the authority, serve as ex officio member of all committees, name the appointive members of all standing and special committees of the authority, and fill all vacancies in the membership of such committees, in accordance with the provisions of these bylaws.

The vice-chairman of the authority shall perform the duties of the chairman in the absence of the chairman.

In the event both the chairman and the vice-chairman are absent from a meeting of the authority, the authority shall elect a temporary chairman from those present.

Section 2. *Secretary*. The authority shall select a secretary annually, who may certify the minutes, papers and documents of the authority or of its committees to be true and correct copies.

Section 3. *Executive Staff*. The executive staff of the authority shall include the incumbent of those positions within the Office of Student Financial Assistance so designated by the executive director and will normally be

composed of the executive director, the legal counsel, the fiscal officer and the directors of the designated divisions within the office, and such other personnel as may be required for the efficient performance of the functions of the authority. The executive staff shall be tasked, directed and supervised by the executive director.

Section 4. Authentication. Copies of all minutes, papers and documents of the commission, or its committees, may be certified to be true and correct copies by either the chairman, secretary or executive director.

Article IV. Order of Business

Section 1. Rules of Order. When not in conflict with any of the provisions of this article, *Roberts Rules of Order* (latest revision) shall constitute the rules of parliamentary procedure applicable to all meetings of the authority or its committees.

Section 2. Order of Business. The order of business of regular meetings of the authority shall be as follows:

- a. roll call,
- b. corrections and approval of minutes of preceding regular meetings and of all special meetings held subsequent thereto,
- c. reports and recommendations of standing and special committees,
- d. unfinished business,
- e. informational updates,
- f. new business,
- g. next meeting.

Section 3. Reference to Committees. In cases where feasible and desirable before taking action, the authority should refer any subject or measure to the standing or special committee in whose purview the matter falls. The committee to which the matter is referred should submit to the authority its recommendations in writing, together with any resolutions necessary to facilitate such recommendations.

Section 4. Meetings. Meetings shall be conducted in accordance with state law governing public bodies. It shall be the policy of the authority that all meetings be open to all who wish to attend. In complying with the provisions of the Open Meetings Law, the authority may enter into a closed or executive session by two thirds majority vote of the quorum present. Prior to each regular meeting of the authority, the executive director, with approval of the chairman, shall prepare and forward to each member of the authority a tentative agenda for the meeting at least five working days prior to such regular meeting. Upon request of three members of the authority made prior to the 5 day before the authority's next meeting that a particular item be included, the chairman shall place the subject or subjects upon the agenda. Notwithstanding the foregoing, all matters requiring authority action may be acted on even though not carried on the agenda.

Each proposal and/or resolution shall be reduced to writing and presented to the Authority before it is acted upon. All official actions of the Authority shall require a simple majority vote of the quorum present at the meeting.

Section 5. Minutes. The minutes of the authority shall record official action taken upon motions or resolutions which are voted upon by the authority and may contain a summary of reports and pertinent discussion. The foregoing provisions

relative to contents of the minutes shall, in general, also apply to minutes of committees of the authority. The minutes of meetings of the authority become official only when completed and approved by the Authority.

Section 6. Meeting Attendance. Authority members are required to attend all authority meetings. Failure to attend a minimum of one-fourth of the authority's meetings annually, will result in a notice being sent from the authority to the absent member stating that failure to attend one more meeting will result in a request being made to the appointing authority that the absent member be replaced. The absent member shall be relieved of duties on any committee to which he/she has been appointed to serve. This section is not applicable to meetings that are missed with just cause, as determined by the chairman.

Article V. Committees

Section 1. Standing Committees. Unless and until otherwise decided by the vote of a simple majority of the membership of the authority, the standing committees of the authority shall consist of the following:

- a. executive committee;
- b. budget and finance committee.

Section 2. Appointment and Terms. Members of all standing committees, one of whom shall be designated as chairman and one of whom shall be designated as vice-chairman, shall be appointed by the chairman of the authority, ordinarily soon after the chairman assumes office. The term of committee appointments shall be one year.

Vacancies occurring among the appointive members of any committees, however arising, shall be filled by the chairman of the authority for the remainder of the unexpired term.

Section 3. Officers of Standing Committees. The chairman and the vice-chairman of the authority shall be chairman and vice-chairman, respectively, of the executive committee. In the absence of the chairman, the vice-chairman shall preside. In the event both the chairman and vice-chairman are absent from a meeting, the committee shall elect a temporary chairman from those present.

It shall be the duty of the chairman of each committee to call and to preside over, the necessary meetings. The minutes of the meeting of the committee, showing its actions and recommendations, shall be deemed in compliance with the provisions of Article IV, Section 3, hereof, concerning the written recommendations of the committee.

Section 4. Quorum of Committee Meetings. A simple majority of the membership present at a meeting of a committee of the authority shall constitute a quorum for the transaction of business. When a quorum is not present, the chairman of the committee, or vice-chairman in the chairman's absence, may designate a member of the authority to serve as a substitute member of the committee concerned.

Section 5. Authority of Committees. The authority of committees of the authority shall be subject to these bylaws and to the policies and direction of the authority.

Section 6. Executive Committee. The executive committee shall consist of five members. The chairman and Vice-chairman of the authority shall serve in those capacities on the executive committee. The chairman of each of the other standing committees or the chair's designee from his

respective committee shall be a member of the executive committee. The remaining members, for a total of five members, shall be appointed by the chairman of the authority from the other members of the authority.

The executive committee shall consider such matters as shall be referred to it by the authority and shall execute such orders and resolutions as shall be assigned to it at any meeting of the authority. However, the authority may not delegate to the executive committee the final determination of the rate of interest to be paid on education savings accounts of record at the close of the calendar year. All official actions of the executive committee shall require a majority vote of the quorum present at the meeting. The executive committee shall also approve all budget adjustments prior to submission to the appropriate authority. In the event that an emergency requiring immediate authority action shall arise between authority meetings, it shall be the duty of the executive committee to meet in emergency session to take such action as may be necessary and appropriate. The executive committee shall report the actions it takes in emergency session to the authority for ratification at the authority's next meeting.

Section 7. Budget and Finance Committee. The budget and finance committee shall consist of not less than six members of the authority. Normally, to this committee shall be referred all matters related to budget and to policies concerning the financial management of the authority and the office.

Section 8. Special Committees. As the necessity therefor arises, the chairman may, with the concurrence of the authority, create special committees with such functions, powers and authority as may be delegated. The chairman may appoint ad hoc committees for special assignments for limited periods of existence not to exceed the completion of the assigned task.

Article VI. Communications to the Authority

Section 1. All communications to the authority, or to any committee thereof, from persons having official relations with the authority shall be filed in writing with the executive director and duly transmitted by him to the authority. The executive director shall have the authority to read and comment upon all communications from employees of the office but shall not delay or withhold such communications, except as hereinafter provided. Such communications shall be filed with the executive director at least five days before the meeting of the authority or committee and with the chairman at least three days before such meeting. Otherwise, the executive director may either submit such communication at that time or withhold such communication until the next meeting. In the event the executive director elects to withhold any such communication until the next meeting, such communication shall be promptly forwarded to the chairman with the notation of the executive director concerning such withholding.

Article VII. Rights, Duties and Responsibilities of Executive Staff of the Authority

Section 1. Executive Staff of the Authority. The executive staff of the authority shall include the incumbent of those positions within the Office of Student Financial Assistance so designated by the executive director and will normally be

composed of the executive director, the legal counsel, the fiscal officer and the directors of designated divisions within the office, and such other personnel as may be required for the efficient performance of the functions of the authority. The executive staff shall be tasked, directed and supervised by the executive director.

Unless otherwise directed by the executive director, the executive staff shall attend the meetings of the authority and its various committees.

Section 2. Executive Director.

a. The executive director shall be the executive head and chief administrative officer of the Office of Student Financial Assistance. The executive director will be responsible to the authority for the conduct of the Office of Student Financial Assistance in all affairs and shall execute and enforce all of the decisions, orders, rules and regulations of the authority with respect to the conduct of the Office of Student Financial Assistance. The executive director's discretionary authority shall be broad enough to enable him/her to meet his/her responsibilities, in the day to day operations of the Office of Student Financial Assistance.

b. The Executive Director shall be the "appointing authority" for the purposes defined by State Civil Service law, rules and regulations and shall exercise the authority granted to an "appointing authority" thereunder.

c. Subject to these bylaws and the regulations and directions of the authority, the executive director shall:

1. Establish administrative policies and procedures for the operation of the Office of Student Financial Assistance, as they may relate to the authority's program.

2. Plan, organize, supervise, direct, administer, and execute the functions and activities of the Office of Student Financial Assistance, as they may relate to the authority's program.

3. Prepare and present a business plan and consolidated budget for the Office of Student Financial Assistance and the authority.

4. Serve as governmental liaison and spokesperson for the authority.

5. Promote the development of the authority's program.

d. The executive director shall task, direct, and supervise the executive staff.

e. The executive director shall be responsible for ensuring compliance with the legislatively enacted budgets as approved by the authority.

Section 3. Delegation of Authority. In the absence of the executive director, the director of the loan division, as delegated by the executive director during his/her absences, will assume the duties of the executive director. In the event both the executive director and the director of the loan division are absent, the executive director will appoint another division director to assume the duties of the executive director.

Section 4. Directors of Divisions

a. There shall be a director for each division of the Office of Student Financial Assistance, appointed by the executive director in accordance with State Civil Service laws, rules and regulations. Under the direction and authority of the

executive director, each director shall administer the division for which he/she is appointed.

b. As the administrative head of a division, the director shall be responsible to the executive director for planning, supervising, directing, administering and executing the functions and programs assigned to the division in accordance with all applicable laws, rules, regulations, policies, directives, and budgets.

c. The directors may invite members of his/her administrative staff to aid in his/her presentations to the authority.

Section 5. Agency Fiscal Officer (Manager). The fiscal officer is responsible for assisting in the development of annual operating budgets, based upon the authority's approved business plan. This shall include the functions of review and recommendations concerning the budget of the scholarship, grant, and savings division, the preparation of a consolidated budget, as well as monitoring and reporting the budget as approved by the authority and enacted by the state legislature.

Article VIII. Responsibilities of Authority Members

Authority members are charged with the responsibility of ensuring that the functions and duties of the Office of Student Financial Assistance as they relate to the authority's program are performed effectively in fulfilling the purposes of R.S. 17:3091 through 3099.2. Prior to assuming the responsibilities to which appointed and to avoid any potential conflict of interest, an authority member shall, to the best of his or her knowledge, disclose to the State Board of Ethics any pre-existing relationship between the authority and the member, the member's immediate family, or any entity in which the member has a substantial economic interest. This obligation to disclose is a continuing obligation.

Article IX. Amendment or Repeal of Bylaws

New bylaws may be adopted, and bylaws may be amended or repealed, at any meeting of the authority, but no such action shall be taken unless notice of such proposed adoption, amendment, or repeal shall have been given at a previous meeting or notice in writing of the proposed change shall have been served upon each member of the authority at least 30 days in advance of the final vote upon such change, provided, however, when deemed necessary, that by a simple majority of the entire membership of the authority, the requirements for such notice may be waived at any time.

Article X. Rules and Regulations of Louisiana Tuition Trust Authority

Section 1. Any action by the authority establishing policy or methods of procedure, administrative, business, or otherwise shall be known as "Rules and Regulations of the Louisiana Tuition Trust Authority."

Section 2. "Rules and Regulations of the Louisiana Tuition Trust Authority" may be adopted by the authority, or may be amended or repealed, in whole or in part, at any meeting of the authority by a vote of simple majority.

Section 3. All policies and procedures of the authority falling within the definition of rules and regulations, as herein defined, and in existence upon the date of the adoption of these bylaws, shall be a part of the "Rules and Regulations of the Louisiana Tuition Trust Authority."

Article XI. Effective Dates

These bylaws shall be adopted and shall become effective on the date they are published as final rule in the *Louisiana Register*.

Article XII. Repealing Clause

All rules, orders, regulations, and resolutions heretofore enacted or adopted by the authority, which are in conflict with these bylaws, are hereby repealed.

Article XIII. Conforming Clause

No rule, order, regulation or resolution shall be adopted by the authority which is in conflict or is inconsistent with the law, rules, guidelines, officer selection and employment policies applicable to the Louisiana Student Financial Assistance Commission.

Interested persons may submit written comments on the bylaws until 4:30 p.m., November 20, 1996, to: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tuition Trust Authority Bylaws

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs associated with publishing the bylaws in the *Louisiana Register* are \$320 for publication of the notice and \$320 for publication of the rule, for a total of \$640.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact on revenue collections will result from this action.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Publication of the Louisiana Tuition Trust Authority Bylaws will provide official notification to all persons or entities of the policies and procedures by which the authority will conduct its business.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition and employment is anticipated to result from this action.

Jack L. Guinn
Executive Director
9609#028

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

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

NESHAP for Source Categories
(LAC 33:III.Chapter 51 and 53)(AQ144)

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 the Air Quality Division Regulations, LAC 33:III.Chapter 51, Subchapters B and C and Chapter 53, Subchapter B (AQ144).

This rulemaking proposes to add new requirements to Louisiana's Air Quality regulations by adopting by reference specific parts of 40 CFR Part 63 - NESHAP for Source Categories. In addition, specific parts of 40 CFR Part 61 are being incorporated by reference to replace existing state regulations which are identical or only slightly different from the federal regulation. This will reduce the volume of state regulations and also eliminate duplication and confusion experienced by the regulated community in determining the differences between state and federal regulations. Specific changes are as follows:

LAC 33:III.Chapter 51

Sections 5101, 5103, 5105, 5107, 5109, 5111, and 5113 have been revised to correct text with the new state codification and federal references;

Section 5115 will be repealed in its entirety;

Sections 5117, 5121, 5133, 5137, 5139, 5143, 5161, 5163, and 5171 will be repealed in their entirety as these regulations will be incorporated by reference from 40 CFR Part 61 into section 5116;

Section 5122 will be added to adopt by reference specified subparts from 40 CFR Part 63 as they pertain to major sources.

LAC 33:III.Chapter 53

Section 5301 has been revised as indicated within Chapter 53;

Section 5311 will be added to adopt by reference specified subparts from 40 CFR Part 63 as they pertain to area sources;

Section 5303 will be repealed in its entirety.

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.

A public hearing will be held on October 25, 1996, 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 as AQ144. Such comments should be submitted no later than November 1, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70810 or to FAX (504) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ144. Copies can also be obtained from the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802 or call (504) 342-5015.

This proposed regulation is available for inspection from 8 a.m. until 4:30 p.m. at the following DEQ office locations: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

The proposed regulation is also available at the following public libraries: Calcasieu Parish Public Library, Carnegie Memorial Branch, 411 Pujo St., Lake Charles, 70601; East Baton Rouge Parish Library, 7711 Goodwood Blvd., Baton Rouge, 70806; Jefferson Parish Library, 3420 N. Causeway, Metairie, 70002; Lafayette Public Library, 301 W. Congress, Lafayette, 70502; Ouachita Parish Library, 1800 Stubbs Ave., Monroe, 71201; and Shreve Memorial Library, 424 Texas St., Shreveport, 71120.

Gus Von Bodungen
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: NESHAP for Source Categories

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on state or local government expenditures is anticipated. The proposed rule will update state regulations to maintain equivalency with federal regulations.
- 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 costs and/or economic benefits to directly affected persons or nongovernmental groups is anticipated. The regulatory community is already required to abide by the regulatory requirements of the federal rules promulgated by the Environmental Protection Agency. By incorporation, the state regulations will essentially track the federal rules in order to maintain equivalency with federal regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect of this proposed amendment on competition and employment is anticipated.

Gus Von Bodungen
Assistant Secretary
9609#095

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

**Land Disposal Restriction Variances
(LAC 33:V.2271)(HW051)**

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 the Hazardous Waste Division regulations, LAC 33:V.2271 (HW051).

This rule clarifies that if an exemption decision by the Department is vacated and/or remanded by a court on judicial review, the emergency variance shall be automatically reinstated and shall remain in effect until final action on the remand is taken by the administrative authority and any subsequent appeal process has been completed.

This rule is necessary because the ability of certain underground injection well operators to continue injection of wastewater during the time period necessary for the Department to process their state petitions for exemption under LAC 33:V.2271 has been put into question by the court's decision in *In the Matter of Rubicon, Inc.*, No. 95-CA-0108 (1st Cir. 2/14/96), rehearing denied per curiam (3/29/96), in *In the Matter of Dupont, Inc.*, No. 94-CA-2549 (1st Cir. 4/24/96) and in *In the Matter of Cytec, Inc.*, No 94-CA-1693 (1st Cir. 2/23/96). These decisions vacated and remanded the Department's decisions to grant land disposal exemptions on strictly procedural grounds, not on the merits of the department's actions. There are three other exemption decisions granted by the department pending at the Nineteenth Judicial District Court.

This action will allow affected companies to continue operation of their injection wells until final action on remand is taken by the department and any subsequent appeal process has been completed. This will preserve the status quo pending action by the department.

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.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

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

Chapter 22. Prohibitions on Land Disposal

**§2271. Exemptions To Allow Land Disposal of a
Prohibited Waste By Deep Well Injections**

* * *

[See Prior Text in A-V.5.j]

W. Emergency Variance

1. During the petition review process, the applicant is required to comply with all prohibitions on land disposal under this Chapter, unless a petition for an exemption has been approved by the EPA, and the administrative authority grants an emergency variance. If EPA has approved the exemption, the land disposal of the waste may continue for up to one year under an emergency variance issued by the administrative authority until the administrative authority makes a decision on the petition for exemption. The administrative authority may extend an emergency variance beyond one year; however, such approval is solely based on the agency's inability to review the petition during the first one-year variance. The administrative authority shall either grant or deny the petition within the extended emergency variance period, no later than June 1, 1995, for petitions submitted prior to June 1, 1992. After the administrative authority issues a decision on the exemption, the waste may be land disposed only in accordance with the provision of the exemption.

2. If the exemption decision is vacated and/or remanded by a court on judicial review, the emergency variance shall be automatically reinstated and shall remain in effect until final action on the remand is taken by the administrative authority and any subsequent appeal process has been completed.

* * *

[See Prior Text in X-Z]

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 22:22 (January 1996), amended LR 22:

A public hearing will be held on October 25, 1996, 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 HW051. Such comments should be submitted no later than November 1, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70810 or to FAX (504) 765-0486.

Mike Strong
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Land Disposal Restriction Variances

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

There is no anticipated costs or savings to state or local governmental units.

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

Due to a recent court decision, which vacated and remanded the Department's decision to grant land disposal exemptions for underground injection, certain affected facilities would be forced to cease operations entirely, or to close major units if this rule is not approved. If the proposed rule is not promulgated substantial losses in state and local taxes and fees could occur.

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

There is no estimated costs to directly affected persons or nongovernmental groups since it will preserve the status quo pending action by the Department for those plants operating injection wells under a previously issued department exemption.

This action will benefit affected companies by allowing continued operation of their injection wells until final action on remand is taken by the Department and any subsequent appeal process has been completed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No estimated effect on competition and employment is expected since this rule will preserve the status quo.

Herman Robinson
Assistant Secretary
9609#068

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Waste Tire (LAC 33:VII.Chapter 105)(SW021)

(Editor's Note: The following Notice of Intent, appearing on pages 728-731 of the August, 1996 Louisiana Register is being republished to place text in correct order.)

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 the Solid Waste Division regulations, LAC 33:VII.Chapter 105 (SW021).

The proposed rule will make modifications to the Waste Tire Management Fund Prioritization System providing more equity in cleanups and make the emergency rule in effect permanent. The rule also provides for grammatical cleanup of the waste tire regulations.

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.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 2. Recycling

Chapter 105. Waste Tires

§10505. Definitions

The following words, terms, and phrases, when used in conjunction with the solid waste rules and regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

* * *

[See Prior Text]

Major Highway—all asphaltic concrete and concrete interstate and intrastate highways and roads maintained by the United States government or Louisiana state government, or both, or any agencies or departments thereof.

* * *

[See Prior Text]

Marketing—the selling and transferring of waste tires or waste tire material for recycling and/or beneficial use or reuse.

* * *

[See Prior Text]

Promiscuous Tire Pile—an unauthorized waste tire pile that has resulted from storage or disposal activities by anyone other than the landowner without the landowner's knowledge.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:

§10525. Standards and Responsibilities of Waste Tire Processors

* * *

[See Prior Text in A-E.10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended LR 22:

§10535. Fees and Fund Disbursement

* * *

[See Prior Text in A-D.10]

11. After January 1, 1998, a payment of \$1 per 20 pounds of shredded waste tire material or an equivalent amount for waste tire material produced by other processes shall be made when it is documented to the administrative

authority that this material has been marketed and delivered for beneficial use.

* * *

[See Prior Text in D.12-D.13]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:

§10536. Cleanup of Promiscuous/Unauthorized Tire Piles

A. Upon promulgation of these regulations, the administrative authority may issue agreements for cleanup of promiscuous/unauthorized tire piles. The number of agreements issued each year shall be determined based on the availability of funds in the Waste Tire Management Fund that are designated for promiscuous/unauthorized tire pile cleanup. Any such agreements will designate specific eligible sites and the department will monitor the cleanup activities, which shall be made in accordance with the standards and responsibilities outlined in the solid waste regulations, LAC 33:VII. Any such agreements shall stipulate a maximum amount of total allowable costs that shall be paid from the Waste Tire Management Fund. These monies shall not be applied to indirect costs and other unallowable costs, which include but are not limited to, administrative costs, consulting fees, or legal fees. Furthermore, they shall not be applied to reclamation efforts or cleanup costs associated with other types of contaminants, which may be detected during the remediation process. Rather, these funds shall be applied to direct costs such as labor, transportation, processing, and disposal costs of the waste tires.

B. In order to apply for and receive funding for promiscuous/unauthorized tire site cleanup, local governments must provide the administrative authority with promiscuous/unauthorized tire site information. This information includes, but is not limited to, accurate site location, number of tires on site, visual report on site with photographs and proximity to residences, schools, hospitals and/or nursing homes, and major highways. Such information will be submitted using forms available from the administrative authority.

C. Promiscuous/unauthorized tire piles shall be chosen for cleanup based on their placement on the waste tire priority cleanup list. Point values will be assigned in accordance with the Waste Tire Management Fund Prioritization System located in Appendix B. These ranking criteria were developed in consideration of threat to human health, threat of damage to surrounding property, and adverse impact on the environment.

* * *

[See Prior Text in D]

E. Waste tires may not be removed from promiscuous/unauthorized waste tire piles without prior approval of the administrative authority.

F. The administrative authority will seek reimbursement from all responsible parties for any waste tire cleanup costs incurred by the state by any method allowed by law, provided same is practicable and cost effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:

Appendix A. Louisiana Department of Environmental Quality Financial Assurance Documents For Waste Tire Facilities (August 4, 1994)

The following documents are to be used to demonstrate financial responsibility for the closure of waste tire facilities. The wording of the documents shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

* * *

[See Prior Text in Sample Document 1]

SAMPLE DOCUMENT 2:

WASTE TIRE FACILITY PERFORMANCE BOND

Date bond was executed: [date bond executed]

Effective date: [effective date of bond]

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:

Surety: [name(s) and business address(es)]

[Site identification number, site name, facility name, facility address, and closure amount(s) for each facility guaranteed by this bond]

Total penal sum of bond: \$

Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality, Waste Tire Management Fund, in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the waste tire facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure care, as a condition of the permit;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in LAC 33.VII.10525.D.26-28 and obtain written approval of the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of the Louisiana Administrative Code, Title 33, Part VII, or of its permit, for the facility for which this bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance as specified in LAC 33.VII.10525.D.26-28 and obtain written approval of such assurance from the administrative authority during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the surety shall place funds in the amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified by the Louisiana Department of Environmental Quality's Financial Assurance Documents dated August 4, 1993, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]
 [Name(s)]
 [Title(s)]
 [Corporate Seal]

CORPORATE SURETY

[Name and Address]
 State of incorporation:
 Liability limit:
 [Signature(s)]
 [Name(s) and title(s)]
 [Corporate seal]

[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond Premium: \$

* * *

[See Prior Text in Sample Document 3]

Appendix B. Waste Tire Management Fund Prioritization System

Each waste tire site for which cleanup funds are solicited will be ranked according to the point system described below. The total number of points possible for any one site is 145 points. The points shall be allocated according to the following criteria:

I. Approximate Number of Tires in the Pile. This figure shall be an estimate by the department.

Number of Tires in Pile	Point Value
>1,000,000	50
250,001 - 1,000,000	40
100,001 - 250,000	30
50,001 - 100,000	20
<50,000	10

II. Proximity to Nearest Schools. If a school is located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed is 25.

Proximity to Nearest School	Point Value
School within 2 mile radius	25
School within 4 mile radius	17
School within 6 mile radius	9

III. Proximity to Residences. If 50 or more residences are located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed is 25.

Proximity to 50+ Residences	Point Value
50 or more within 2 mile radius	25
50 or more within 4 mile radius	17
50 or more within 6 mile radius	9

IV. Proximity to Hospitals and/or Nursing Homes. If a hospital and/or nursing home is located within the radius described below then the corresponding value is assigned. Only one category may be chosen such that the maximum value is 25.

Proximity to Hospital and/or Nursing Home	Point Value
Hospital and/or nursing home within 2 mile radius	25
Hospital and/or nursing home within 4 mile radius	17
Hospital and/or nursing home within 6 mile radius	9

V. Proximity to Major Highways. If a major highway is located within the radius described below then the corresponding value is assigned. Only one category may be chosen such that the maximum value is 20.

Proximity to Major Highway	Point Value
Major highway within ¼ mile radius	20
Major highway within ½ mile radius	10

A public hearing will be held on September 26, 1996, 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 SW021. Such comments should be submitted no later than October 3, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70810; or to FAX number (504) 765-0486.

Mike Strong
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Waste Tire**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs to state governmental units as the job functions are already being performed. No local governmental units with solid waste facilities will be affected by the rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated effect on revenue collections to the state governmental unit will be zero as the rule only provides equity to the waste tire prioritization system.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no estimated costs to directly affected persons as the rule is only accomplishing equalizing the waste tire prioritization system and grammatical clean up.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no estimated effect on competition or employment to facilities or individuals within the state.

H.M. "Mike" Strong
Assistant Secretary
9609#037

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Sanitary Code—Commercial Seafood Inspection Program
(Chapters XXII, XXIII, and XXIII-A)

The Department of Health and Hospitals, Office of Public Health intends to amend Chapters XXII, XXIII, and XXIII-A

of the State Sanitary Code. The changes are needed in order to recognize new and emerging technologies that have been developed in an effort to make raw molluscan shellfish consumption safe for certain high risk consumers. When adopted, eating establishments and retail markets serving raw shellfish that have undergone an approved treatment process shall be exempt from displaying a consumer information advisory.

New sections to these chapters shall be added as follows:

Chapter XXII

Retail Food Establishments: Markets

22:018-4 Exemption. Establishments that exclusively serve raw molluscan shellfish that have been subjected to a process recognized by the state health officer as being effective in reducing the bacteria *Vibrio vulnificus* to nondetectable levels may apply for an exemption from the mandatory consumer information notification requirement. Establishments interested in obtaining an exemption shall certify in writing to the state health officer, that it shall use exclusively for raw consumption only molluscan shellfish that have been subjected to the approved process. Upon receipt of that communication, the state health officer shall confirm the establishment as being exempt from the requirement of displaying the consumer information message. The establishment's certification must be sent to the state health officer at the following address:

Louisiana Office of Public Health
P. O. Box 60630
New Orleans, Louisiana 70160

Chapter XXIII

Eating and Drinking Establishments

23:006-6 Exemption. Establishments that exclusively serve raw molluscan shellfish that have been subjected to a process recognized by the state health officer as being effective in reducing the bacteria *Vibrio vulnificus* to nondetectable levels may apply for an exemption from the mandatory consumer information notification requirement. Establishments interested in obtaining an exemption shall certify in writing to the state health office, that it shall use exclusively for raw consumption only molluscan shellfish that have been subjected to the approved process. Upon receipt of that communication, the state health officer shall confirm the establishment as being exempt from the requirement of displaying the consumer information message. The establishment's certification must be sent to the state health officer at the following address:

Louisiana Office of Public Health
P. O. Box 60630
New Orleans, Louisiana 70160

Chapter XXIII-A

Temporary Food Service

23A:005-6 Exemption. Establishments that exclusively serve raw molluscan shellfish that have been subjected to a process recognized by the state health officer as being effective in reducing the bacteria *Vibrio vulnificus* to non detectable levels may apply for an exemption from the mandatory consumer information notification requirement. Establishments interested in obtaining an exemption shall certify in writing to the state health officer, that it shall use

exclusively for raw consumption only molluscan shellfish that have been subjected to the approved process. Upon receipt of that communication, the state health officer shall confirm the establishment as being exempt from the requirement of displaying the consumer information message. The establishment's certification must be sent to the state health officer at the following address:

Louisiana Office of Public Health
P. O. Box 60630
New Orleans, Louisiana 70160

Interested persons may submit questions or written comments to: Charles C. Conrad, Administrator, Commercial Seafood Inspection Program, Box 60630, New Orleans, LA 70160. He is responding to inquires regarding these proposed rule changes. All questions or comments must be received by September 30, 1996. A public hearing on this proposed rule will be held on Wednesday, October 30, 1996 at 10 a.m. in the Department of Transportation Building, DHH Annex in the Fourth Floor Conference Room.

Bobby T. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Commercial Seafood Inspection Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs or savings.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no impact on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This rule should have a positive economic impact on both shellfish dealers and restaurateurs. The extent of the anticipated impact is unknown at this time; therefore any related costs are negligible.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no significant impact on competition and employment.

Bobby P. Jindal
Secretary
9609#075

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Sanitary Code—Reportable Diseases (Chapter II)

Under the authority of R.S. 40:5 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq, the Department of Health and Hospitals, Office of Public Health proposes to amend Chapter II of the Louisiana

Sanitary Code. This revised list of reportable diseases provides for the deletion of some diseases (anthrax, aseptic meningitis, brucellosis, diphtheria, erythema infectiousum [Fifth Disease], foodborne illness, genital warts, granuloma inguinale, herpes genitalis, leprosy, leptospirosis, ophthalmia neonatorum, plague, poliomyelitis, psittacosis, trichinosis, tularemia, typhus, yellow fever); the addition of other diseases (cryptosporidiosis, enterococcus infection resistant to vancomycin, staphylococcus aureus infection resistant to methicillin/oxacillin or vancomycin, streptococcus pneumoniae invasive infection resistant to penicillin, varicella [chickenpox]), and the further clarification of some diseases already on the reportable disease list (Haemophilus influenzae invasive infection, Neisseria meningitidis invasive infection, meningitis, other bacterial or fungal).

This action has become necessary as a result of the recognition of new and emerging diseases of public health importance and the need to simplify the list so that medical providers can focus on diseases that are actively tracked epidemiologically and diseases for which there is an active prevention program. Diseases that are being removed from the list are those for which diagnostic criteria are not well defined (such as "foodborne illness"), diseases which may represent chronic or recurrent condition with uncertain onset dates (such as herpes genitalis), and extremely rare communicable diseases in Louisiana (such as plague). Additionally, this last group of diseases will still be reported under the requirement listed above which states "... all cases of rare or exotic communicable diseases and all outbreaks shall be reported".

Chapter II

The Control of Disease

2:003 The following diseases are hereby declared reportable:

- Acquired Immune Deficiency Syndrome (AIDS)
- Amebiasis
- Arthropod-borne encephalitis (Specify type)
- Blastomycosis
- Botulism*
- Campylobacteriosis
- Chancroid**
- Chlamydial infection**
- Cholera*
- Cryptosporidiosis
- Enterococcus infection; resistant to vancomycin)
- Escherichia coli 0157:H7
- Gonorrhea**
- Haemophilus influenzae (invasive infection)
- Hemolytic-Uremic Syndrome
- Hepatitis, Acute (A,B,C, Other)
- Human Immunodeficiency Virus (HIV) infection****
- Legionellosis
- Lyme disease
- Lymphogranuloma venereum**
- Malaria
- Measles (rubeola)*
- Meningitis, other bacterial or fungal
- Mumps
- Mycobacteriosis, atypical***

Neisseria meningitidis (invasive infection)
 Pertussis
 Rabies (animal and man)
 Rocky Mountain Spotted Fever (RMSF)
 Rubella (congenital syndrome)
 Salmonellosis
 Shigellosis
 Staphylococcus aureus (infection; resistant to methicillin/
 oxacillin or vancomycin)
 Streptococcus pneumoniae (invasive infection; resistant
 to penicillin)
 Syphilis**
 Tetanus
 Tuberculosis***
 Typhoid fever
 Varicella (chickenpox)
 Vibrio infections (excluding cholera)

Report cases on green EPI-2430 card unless indicated otherwise below.

*Report suspected cases immediately by telephone. In addition, report all cases of rare or exotic communicable diseases and all outbreaks.

**Report on STD-43 form. Report syphilis cases with active lesions by telephone.

***Report on CDC 72.5 (f5.2431) card

All reportable diseases and conditions other than the venereal diseases, tuberculosis and those conditions followed by asterisks should be reported on an EPI-2430 card and forwarded to the local parish health unit or the Epidemiology Section, P.O. Box 60630, New Orleans, Louisiana 70160, phone 1-800-256-2748 or FAX 504-568-3206.

Other Reportable Conditions

Cancer
 Complications of abortion
 Congenital hypothyroidism*****
 Galactosemia*****
 Hemophilia*****
 Lead poisoning
 Phenylketonuria*****
 Severe traumatic head injury****
 Severe traumatic head injury****
 Severe undernutrition (severe anemia, failure to thrive)
 Sickle cell disease (newborns)*****
 Spinal cord injury****
 Sudden infant death syndrome (SIDS)

Report cases on an EPI-2430 card unless indicated otherwise below:

****Report on DDP3 form; preliminary telephone report from emergency room encouraged (504) 568-2509.

*****Report to the Louisiana Genetic Diseases Program Office by telephone (504) 568-5070 or FAX (504) 568-7722.

Interested persons may submit written comments or questions to: Dr. Louise McFarland, State Epidemiologist, Epidemiology Section, Office of Public Health, Department of Health and Hospitals, Box 60630, New Orleans, LA, 70160.

Bobby P. Jindal
 Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
 FOR ADMINISTRATIVE RULES
 RULE TITLE: Sanitary Code—Reportable Diseases**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 There are no implementation costs to state or local units in implementation of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 There will be no impact on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
 It is anticipated that there will be an increase in the number of reports submitted, therefore any related costs are negligible.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
 There is no estimated effect on competition and employment as a result of this rule change.

Bobby P. Jindal
 Secretary
 9609#094

H. Gordon Monk
 Chief Coordinator of the
 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
 Office of Public Health**

Sanitary Code—Tattooing (Chapter XXIII)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Secretary of the Department of Health and Hospitals proposes to amend Chapter XXIII of the State Sanitary Code to protect patrons and employees at eating and drinking establishments from possible contamination with bloodborne pathogens by prohibiting the practice of "tattooing" at these establishments.

**Chapter XXIII
 Eating and Drinking Establishments**

* * *

Add 23:116 Prohibitive Acts:

Change 23:116 to 23:116-1

Add 23:116-2 Tattooing: No employee or any other person shall engage in the practice of "tattooing" within the premises of any food service establishment as defined in this Chapter.

* * *

Interested persons may submit written comments to: Barry L. Blue, Sanitarian Program Administrator, Retail Food Program, Box 60630, New Orleans, LA 70160 by the close of business on Monday, October 21, 1996. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on the proposed changes will be held on Wednesday, October 30, 1996 at 10 a.m. in the Department of Transportation Building, DHH Annex in the Fourth Floor

Conference Room. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Tattooing**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs or savings to state or local 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 no effect on competition and employment.

Bobby P. Jindal
Secretary
9609#093

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

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

Case Management for Seriously Mentally Ill

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 and as directed by the 1996-97 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 shall be adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing has provided coverage and reimbursement under the Title XIX State Plan for optional targeted case management services for the seriously mentally ill. Effective July 1, 1996, the bureau adopted an emergency rule terminating coverage and reimbursement of optional targeted

case management services for the seriously mentally ill under the Medicaid Program. The department is now proposing to adopt the above provision terminating optional targeted case management services for the seriously mentally ill as a permanent rule under the Medicaid Program in order to maintain the cost savings initiated through emergency rulemaking.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing terminates coverage and reimbursement of optional targeted case management services for the seriously mentally ill under the Medicaid Program.

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

A public hearing will be held on this matter on Tuesday, October 29, 1996 at 8:30 a.m. in the Auditorium of the Department of Transportation and Development, 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. on the day following the public hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Case Management for Seriously Mentally Ill**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed rule and the corresponding emergency rule on the termination of coverage for optional targeted services for the seriously mentally ill will reduce costs by approximately \$962,989 for SFY 1996-97; \$1,551,711 for SFY 1997-98; and \$1,660,331 for SFY 1998-99.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will decrease federal revenue collections by approximately \$4,231,127 for SFY 1997; \$4,005,993 for SFY 1998; and \$4,286,413 for SFY 1999 based on decreased state expenditures.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The enrolled Medicaid providers will experience reimbursement reductions shown above for Medicaid services rendered to recipients of the optional targeted Case Management Services for the Seriously Mentally Ill.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Thomas D. Collins
Director
9609#091

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

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

Case Management Services for Mentally Retarded and Developmentally Disabled

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing 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 and as directed by the 1996-97 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 shall be adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provided coverage and reimbursement for case management services under the State Plan and under the Home and Community Based Waiver Services Program to the Mentally Retarded/Developmentally Disabled. Effective July 1, 1996 an emergency rule was adopted suspending coverage and reimbursement of optional targeted case management services for non-waiver Mentally Retarded/Developmentally Disabled recipients under the State Plan. The bureau has determined that it is necessary to suspend coverage of case management services for the mentally retarded/developmentally disabled population to those Medicaid recipients under the State Plan who are not participants in the Home and Community Based Waiver Services Program under the State Plan due to insufficient funds. However, the case management services for the mentally retarded/developmentally disabled under the Home and Community Based Waiver Services Program shall be retained. The department is proposing adopt the above provision as a permanent rule under the Medicaid Program in order to maintain a cost savings initiated through emergency rulemaking.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing suspends coverage and reimbursement of optional targeted case management services for non-waiver mentally retarded/developmentally disabled recipients under the State Plan. The case management services for the mentally retarded/developmentally disabled population under the Home and Community Based Waiver Services Program are retained.

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

regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Tuesday, October 29, 1996 at 8:30 a.m. in the Auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At this time all interested parties will be afforded the opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Case Management for Mentally Retarded Development Disabled

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed rule and the corresponding emergency rule on the termination of coverage for optional targeted case management services for the seriously mentally ill will reduce costs by approximately \$482,719 for SFY 1996-97; \$777,829 for SFY 1998; and \$832,277 for SFY 1999.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will decrease federal revenue collections by approximately \$2,120,945 for SFY 1997; \$2,008,091 for SFY 1998; and \$2,148,658 for SFY 1999 based on decreased state expenditures.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The enrolled Medicaid providers will experience reimbursement reductions shown above for Medicaid services rendered to recipients of the optional targeted Case Management Services for the Non-Waiver Mentally Retarded/Developmentally Disabled.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Thomas D. Collins
Director
9609#086

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

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

Durable Medical Equipment—Customized Wheelchairs

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 and as directed by the 1996-97 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 adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing currently reimburses Durable Medical Equipment (DME) Providers 80 percent of the Medicare Fee Schedule amounts for wheelchairs with standardized construction and wheelchair accessories all of which have specific HCPC procedure codes and are included in the Medicare Fee Schedule. The department provides reimbursement for wheelchairs with customized construction, HCPC procedure code E1220, and which are not included in the Medicare Fee Schedule based on the lowest bid received from the DME providers who participate in a seating evaluation conducted by a rehabilitation therapist and physician. The bureau has now determined it is necessary to revise its methodology of reimbursement for customized wheelchairs. An emergency rule was adopted effective July 1, 1996 (*Louisiana Register*, Volume 22, Number 7) which changed this methodology to a formula pricing system based on the manufacturer's suggested retail price minus 18 percent. The following proposed rule is necessary to maintain the cost savings initiated by emergency rulemaking.

Proposed Rule

Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing revises the methodology for reimbursing providers of customized wheelchairs from a bidding system to a formula pricing system based on the manufacturer's suggested retail price minus 18 percent.

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

A public hearing on this proposed rule is scheduled for Tuesday, October 29, 1996 at 8:30 a.m. in the Auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At this 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 written comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Durable Medical Equipment—Customized Wheelchairs

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed rule will decrease state costs by approximately \$385,328 for SFY 1996-97; \$609,292 for SFY 1997-98; and \$639,757 for SFY 1998-99.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed rule will decrease federal revenue collections by approximately \$1,693,033 for SFY 1996-97; \$1,572,987 for SFY 1997-98; and \$1,651,636 for SFY 1998-99.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
DME providers of customized wheelchairs will experience the above decreases in state expenditures as reduced payments for their services to Medicaid recipients.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Thomas D. Collins
Director
9609#087

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

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

EPSDT Health Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing 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 and as directed by the 1996-97 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 proposed rule shall be adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses KIDMED providers a flat fee for medical screening services and for rehabilitation services provided to Medicaid recipients under 21 years of age, which are included in an Individual Education Plan or Individual/Family Service Plan and provided by school boards or early intervention centers covered under the early Periodic Screening, Diagnostic

Testing and Treatment (EPSDT) Program. The rehabilitation services include evaluation and treatment services for speech, occupational, physical, and psychological therapies as well as audiological services. These services were not reduced during state fiscal year 1995-1996 when similar services were reduced for other providers. Effective July 1, 1996, (*Louisiana Register*, Volume 22, Number 7) the bureau adopted two emergency rules which reduced the reimbursement fees for follow-up medical screening and rehabilitation services under the Early Periodic Screening Diagnostic and Treatment Program.

Therefore the bureau has determined that it is necessary to reduce the flat fee for the follow-up medical screening services codes and to reduce by ten percent the reimbursement fee for the previously referenced rehabilitation services. The department is now proposing to adopt the above reimbursement reductions under the EPSDT Program in order to maintain the cost savings initiated through emergency rulemaking.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following reimbursement methodology for follow-up medical screening and rehabilitation services provided under the Early Periodic Screening Diagnostic and Treatment (EPSDT) Program:

A. Reimbursement for follow-up medical screening services included under the EPSDT Program is reduced for the following procedure codes.

Procedure Codes	Description	New Rate
X0180	Consult EPSDT-New Dx by Nurse	\$13.71
X0181	Consult EPSDT-New Dx by Nutrition	\$13.71
X0182	Consult EPSDT-New Dx by Social Worker	\$13.71
X0187	Consult EPSDT-Scrn Dx-by Nurse	\$13.71
X0188	Consult EPSDT-Scrn Dx-by Nutrition	\$13.71
X0189	Consult EPSDT-Scrn Dx-by Social Worker; and	\$13.71

B. The reimbursement for rehabilitation services provided to Medicaid recipients under 21 years of age included in an Individual Education Plan or Individual/Family Service Plan and provided by school boards or early intervention centers covered under the Early Periodic Screening, Diagnostic Testing and Treatment (EPSDT) Program is reduced by 10 percent, and the rehabilitation services include evaluation and treatment services for speech, occupational, physical, and psychological therapies as well as audiological services.

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

A public hearing is scheduled for Monday, October 28, 1996, at 8:30 a.m., in the Auditorium of the Department of Transportation and Development, 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. on the day following the public hearing.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: EPSDT Health Services

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed rule and the corresponding emergency rule on reimbursement regulations for EPSDT Program services will reduce costs by approximately \$174,385 for SFY 1996-97; \$275,743 for SFY 1997-98; and \$289,530 for SFY 1998-99.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will decrease federal revenue collections by approximately \$766,203 for SFY 1997; \$711,875 for SFY 1998; and \$747,468 for SFY 1999 based on decreased state expenditures.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The enrolled Medicaid providers will experience reimbursement reductions shown above for Medicaid services rendered to persons of the Early Periodic Screening Diagnosis and Testing Program.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Thomas D. Collins
Director
9609#092

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

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

Federally Qualified Health Centers

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing 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 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 proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing has reimbursed federally qualified health centers under a cost reimbursement methodology as published

in the *Louisiana Register*, Volume 16, Number 8 of August 20, 1990. The bureau has determined it is necessary to revise its reimbursement methodology for federally qualified health centers. An emergency rule was adopted effective July 1, 1996, (*Louisiana Register*, Volume 22, Number 7) which revised the reimbursement methodology by limiting reimbursements to federally qualified health centers by applying the Medicare payment limit to core services. A core service is defined as a face-to-face encounter with a physician, physician assistant, nurse practitioner, clinical psychologist or clinical social worker. The following proposed rule is necessary to maintain the cost savings initiated by emergency rulemaking.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing limits reimbursement to federally qualified health centers by applying the Medicare payment limit to core services. A core service is defined as a face-to-face encounter with a physician, physician assistant, nurse practitioner, clinical psychologist or clinical social worker.

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

A public hearing on this proposed rule is scheduled for Tuesday, October 29, 1996 at 1 p.m. in the Auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At this 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 written comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Federally Qualified Health Centers

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

It is anticipated that implementation of this proposed rule and the corresponding emergency rule on the reimbursement changes for federally qualified health center services will reduce costs by approximately \$259,167 for SFY 1997; \$401,996 for SFY 1998; and \$413,705 for SFY 1999.

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

Implementation of this rule will decrease federal revenue collections by approximately \$1,138,711 for SFY 1997; \$1,037,819 for SFY 1998; and \$1,068,047 for SFY 1999.

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

The federally qualified health centers will experience the above decreases in state expenditures as reduced payments for these services to Medicaid recipients.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9609#088

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

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

Medically Needy Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following proposed rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act, 42 USCA 1396a et seq. and as directed by the 1996-97 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 proposed in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has provided coverage for the Medically Needy Program under the Medicaid Program. The Medically Needy Program includes those individuals or families who meet all AFDC or SSI related categorical requirements and whose income is within the Medically Needy Income Eligibility Standard and/or whose resources are within the allowable limits. It also includes those individuals or families whose resources fall within the AFDC or SSI limits, but whose income is above the Medically Needy Income Eligibility Standard. Coverage for these individuals is optional under Title XIX of the Social Security Act Section 1902(a)(10) and 42 CFR Subpart D Section 435.300. A state may choose to include or exclude coverage for this eligibility category from its Title XIX State Plan. The department has determined it is necessary to terminate coverage for the Medically Needy eligibility category, and the following proposed rule is necessary to maintain a cost savings initiated through emergency rulemaking. An emergency rule was adopted effective July 1, 1996 (*Louisiana Register*, Volume 22, Number 7), terminating this optional program.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing terminates coverage for all individuals certified for the Medically Needy Program including those individuals with an approved period of coverage which extends beyond June 30, 1996.

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

A public hearing on this proposed rule is scheduled for Tuesday, October 29, 1996, at 1 p.m. in the auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At this time, all interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. the day following the public hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medically Needy Program**

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

It is anticipated that implementation of this proposed rule and the corresponding emergency rule on the termination of coverage for the Medically Needy Program will reduce costs by approximately \$8,649,494 for SFY 1997; \$10,972,168 for SFY 1998; and \$11,740,220 for SFY 1999.

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

Implementation of this rule will decrease federal revenue collections by approximately \$38,003,656 for SFY 1997; \$38,946,703 for SFY 1998; and \$41,672,972 for SFY 1999 based on decreased state expenditures.

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

Enrolled Medicaid providers will experience the reimbursement reductions shown above for Medicaid services rendered to recipients of the Medically Needy Program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9609#089

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

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

Outpatient Hospital Laboratory Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing 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 and as directed by the 1996-97 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 proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses hospitals for outpatient laboratory services. The bureau has differentiated in the reimbursement rate for outpatient hospital laboratory services from laboratory services performed in a non-hospital setting. Effective July 7, 1995 the bureau reduced the reimbursement for laboratory services except for those services performed in an outpatient hospital setting (*Louisiana Register*, Volume 21 Number 7, page 649). The bureau adopted an emergency rule effective July 1, 1996 which reduced the reimbursement for outpatient hospital laboratory services subject to the Medicare fee schedule in order to achieve a uniform reimbursement methodology for all laboratory services subject to the Medicare fee schedule regardless of the setting in which the services are performed (*Louisiana Register*, Volume 22, Number 7, page 573). The following proposed rule is necessary to maintain the cost savings initiated by emergency rulemaking.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses hospitals for outpatient laboratory services as described below.

A uniform reimbursement methodology for all laboratory services subject to the Medicare fee schedule is established regardless of the setting in which the services are performed. The reimbursement rate for outpatient hospital laboratory services subject to the Medicare fee schedule are reimbursed at the same reimbursement rate for laboratory services provided in a non-hospital setting.

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

A public hearing will be held on this matter on Monday, October 28, 1996 at 8:30 a.m. in the Auditorium of the Department of Transportation and Development, 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. on the day following the public hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Outpatient Hospital Laboratory Services**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed rule and the corresponding emergency rule on the reimbursement changes for outpatient hospital laboratory services will reduce costs by approximately \$126,351 for SFY 1997; \$199,790 for SFY 1998; and \$209,780 for SFY 1999.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will decrease federal revenue collections by approximately \$555,155 for SFY 1997; \$515,791 for SFY 1998; and \$541,580 for SFY 1999.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The hospital providers of outpatient laboratory services will experience the above decreases in expenditures as reduced payments for these services to Medicaid recipients.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Thomas D. Collins
Director
9609#090

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**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 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 and as directed by the 1996-97 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 proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides a pharmacy 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 \$0.10 provider fee collected on all prescriptions dispensed to Louisiana residents by

pharmacists. This dispensing fee is called the Louisiana Maximum Allowable Overhead Cost and is determined by updating the base rate through the application of certain economic indices to appropriate cost categories to assure recognition of costs which are incurred by efficiently and economically operated providers. During state fiscal year 1995-96 the bureau maintained the Louisiana Maximum Allowable Overhead Cost at the state fiscal year 1994-1995 level. An emergency rule was adopted to continue the Louisiana Maximum Allowable Overhead Cost at the state fiscal year 1994-1995 level (*Louisiana Register* Volume 22, Number 8). The following proposed rule is necessary to maintain the cost savings initiated by the emergency rule.

Proposed Rule

Effective for dates of service August 8, 1996 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 state fiscal year 1996-97, the Maximum Allowable Overhead Cost will remain at the level established for state 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, 1996 through June 30, 1997.

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

A public hearing on this proposed rule is scheduled for Tuesday, October 29, 1996 at 1 p.m. in the Auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At this time all interested parties will be afforded the 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 following the hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pharmacy Program—Maximum Allowable
Overhead Cost**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed rule will decrease state costs by approximately \$1,090,120 for SFY 1997, \$1,712,238 for SFY 1998 and \$1,767,201 for SFY 1999.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed rule will decrease federal revenue collections by approximately \$4,789,705 for 1997, \$4,420,419 for SFY 1998 and \$4,562,315 for SFY 1999.

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

The pharmacists enrolled in the Medicaid Program will experience these cost savings as reduced reimbursement for pharmacy services rendered to Medicaid recipients.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9609#076

H. Gordon Monk
Chief Coordinator to the
Legislative Fiscal Office

NOTICE OF INTENT

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

Physicians Services—Reimbursement

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 and as directed by the 1996-97 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, utilization review, and other measures as allowed by federal law". This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage and reimbursement for physician services under the Medicaid Program. Effective July 1, 1996 the bureau adopted four emergency rules concerning reimbursement under the Professional Services Program for anesthesia and surgery services as well as the payment rates for specified CPT procedure codes (*Louisiana Register*, Volume 22, Number 7).

The bureau's reimbursement policy has included payment for anesthesia services provided on the day of surgery or delivery. However this policy has not been promulgated under the Administrative Procedure Act. In addition, the bureau has determined that the more appropriate reimbursement for the re-injection of the epidural catheter necessitates the use of the CPT procedure code 00098 when a period of several hours lapses between a delivery and the performance of a tubal ligation and the re-injection of the epidural catheter is required.

Previously the bureau had not defined a global surgery period for the reimbursement of surgical services which is now necessary in order to reimburse these services properly. Each CPT surgical procedure code will be assigned to a specific global surgery period. Three global surgery periods consisting of the day before and the day of surgery and either

0, 10, or 90 post-operative days will be utilized. Pre- and post-operative visits made during any of these global surgery periods shall be considered to be a part of the surgery fee.

The Medicaid Program reimburses professional services according to established rates for Current Procedural Terminology (CPT) codes, locally assigned codes and HCPS codes contained on the Physician's Formulary File. Reimbursement for certain bilateral medical and surgical procedures has been provided at a rate of 200 percent of the fee on this Physician's Formulary file. The bureau is proposing to reduce reimbursement to 150 percent of the fee on the Physician's Formulary File for following CPT procedure codes.

30903	31276	49505	69420	31254
49495	49507	69421	31255	49496
49520	69424	31256	49500	49521
69433	31267	49501	49525	69436

The bureau has determined through the Legislative Auditor's Report that the fees paid for four CPT codes were above the southern regional average.

36415 - for routine finger stick to collect specimen;

99211 - outpatient visit, established patient (may not require physician's presence);

99212 - outpatient visit, established patient, straightforward medical decision making;

99233 - for subsequent hospital care, medical decision making of high complexity.

Therefore the bureau is proposing to reduce the reimbursement for the following CPT procedure codes payable under the Professional Services Program in accordance with the southern regional average.

The department is now proposing to adopt the above reimbursement provisions for anesthesia, surgery and certain CPT codes under the Administrative Procedure Act in order to maintain the cost savings initiated through emergency rulemaking.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following regulations governing the provision of physician services under the Professional Services Program.

1. Anesthesia Services

A. Anesthesia services are reimbursed for the day of surgery or delivery.

B. CPT procedure code 00098 must be used when a period of several hours lapses between a delivery and the performance of a tubal ligation and the re-injection of the epidural catheter is required.

2. Surgery Services

A. Each CPT surgical procedure code shall be assigned to one of the global surgery periods.

B. Three different global surgery periods will be utilized. One period shall consist of 0 days defined as the day before and the day of surgery only; the second period shall consist of 10 days defined as the day before and the day of surgery and 10 post-operative days; and the third period shall consist of 90 days defined as the day before and the day of surgery and 90 post-operative days.

C. No outpatient or inpatient visits during the global surgery period will be reimbursed unless the diagnosis code

for the visit is different from that of the diagnosis code necessitating the surgery.

3. **Bilateral Medical and Surgical Procedure Reductions.** Reimbursement shall be made at 150 percent of the fee on the Physician's Formulary File for the following CPT procedure codes.

30903	31276	49505	69420	31254
49495	49507	69421	31255	49496
49520	69424	31256	49500	49521
69433	31267	49501	49525	69436

4. **Other Reimbursement Reductions**

CPT Code	Description	New Fee
36415	Routine finger stick to collect specimen	\$ 2.65
99211	Outpatient visit, established patient (may not require physician's presence)	\$ 9.24
99212	Outpatient visit, established patient straightforward medical decision making	\$18.91
99233	Subsequent hospital care, medical decision making of high complexity	\$42.60

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

A public hearing will be held on this matter on Monday, October 28, 1996 at 8:30 a.m. in the Auditorium of the Department of Transportation and Development, 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. on the day following the public hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Physician Services**

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

It is anticipated that implementation of this proposed rule and the corresponding emergency rule on the reimbursement changes for the Professional Services Program will reduce costs by approximately \$1,013,041 for SFY 1997; \$1,601,851 for SFY 1998; and \$1,697,962 for SFY 1999.

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

Implementation of this rule will decrease federal revenue collections by approximately \$4,451,043 for SFY 1997; \$4,135,437 for SFY 1998; and \$4,383,564 for SFY 1999.

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

The physician providers of the Medicaid Program will experience the above decrease in state expenditures.

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

There is no known effect on competition and employment.

Thomas D. Collins
Director
9609#085

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Commissioner of Insurance**

Regulation 60—Advertising of Life Insurance

Under the authority of R.S. 22:3, and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance gives notice that the following regulation is to be adopted effective January 1, 1997. This intended action complies with the statutory law administered by the Department of Insurance.

Regulation 60

Rules Governing the Advertising of Life Insurance

Section 1. Purpose

The purpose of this regulation is to set forth minimum standards and guidelines to assure a full and truthful disclosure to the public of all material and relevant information in the advertising of life insurance policies and annuity contracts.

Section 2. Authority

This regulation is promulgated by the Department of Insurance under the authority granted by R.S. Title 22, Section 3, and the Administrative Procedure Act, R.S. 49:950 et seq.

Section 3. Definitions

For the purpose of these rules:

A. *Advertisement*—shall be material designed to create public interest in life insurance or annuities or in an insurer, or in an insurance producer; or to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy including:

(1) printed and published material, audiovisual material, and descriptive literature of an insurer or insurance producer used in direct mail, newspapers, magazines, radio and television scripts, billboards and similar displays;

(2) descriptive literature and sales aids of all kinds, authored by the insurer, its insurance producers, or third parties, issued, distributed or used by such insurer or insurance producer; including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters;

(3) material used for the recruitment, training, and education of an insurer's insurance producers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy;

(4) prepared sales talks, presentations and material for use by insurance producers.

B. *Advertisement*—for the purpose of these rules shall NOT include:

(1) communications or materials used within an insurer's own organization and not intended for dissemination to the public;

(2) communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate or retain a policy;

(3) a general announcement from a group or blanket policyholder to eligible individuals on an employment or

membership list that a policy or program has been written or arranged; provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

C. *Department or Department of Insurance*—the Louisiana Department of Insurance.

D. *Insurance Producer*—a person [as defined in R.S. 1212(D)] who solicits, negotiates, effects, procures, delivers, renews, continues or binds policies of insurance for risks residing, located, or intended for issuance in this State.

E. *Insurer*—includes any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's, fraternal benefit society, and any other legal entity which is defined as an *insurer* in the Louisiana Insurance Code or issues life insurance or annuities in this State and is engaged in the advertisement of a policy.

F. *Policy*—includes any policy, plan, certificate, including a fraternal benefit certificate, contract, agreement, statement of coverage, rider or endorsement which provides for life insurance or annuity benefits.

G. *Nonguaranteed Policy Elements*—the premiums, benefits, values, credits or charges under a policy of life insurance that are not guaranteed or not determined at issue.

H. *Preneed Funeral Contract or Prearrangement*—an agreement by or for an individual before the individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

Section 4. Applicability

A. These rules shall apply to any life insurance or annuity advertisement intended for dissemination in this State.

B. Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. All such advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurer, provided the insurer shall not be responsible for advertisements that are published in violation of written procedures or guidelines of the insurer.

Section 5. Form and Content of Advertisements

A. Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a policy shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive.

Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the Department of Insurance from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

B. No advertisement shall use the terms *investment*, *investment plan*, *founder's plan*, *charter plan*, *deposit*, *expansion plan*, *profit*, *profits*, *profit sharing*, *interest plan*, *savings*, *savings plan*, or other similar terms in connection with a policy in a context or under such circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of such policy to believe that he will receive, or that it is possible that he will receive, something other than a policy or some benefit not available to

other persons of the same class and equal expectation of life.

Section 6. Disclosure Requirements

A. The information required to be disclosed by these rules shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

B. No advertisement shall omit material information or use words, phrases, statements, references or illustrations if such omission or such use has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, premium payable, or state or federal tax consequences. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale, or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.

C. In the event an advertisement uses *Non-Medical, No Medical Examination Required*, or similar terms where issue is not guaranteed, such items shall be accompanied by a further disclosure of equal prominence and in juxtaposition thereto to the effect that issuance of the policy may depend upon the answers to the health questions set forth in the application.

D. An advertisement shall not use as the name or title of a life insurance policy any phrase which does not include the words *life insurance* unless accompanied by other language clearly indicating it is life insurance.

E. An advertisement shall prominently describe the type of policy advertised.

F. An advertisement of an insurance policy marketed by direct response techniques shall not state or imply that because there is no insurance producer or commission involved there will be a cost saving to prospective purchasers unless such is the fact. No such cost savings may be stated or implied without justification satisfactory to the Department of Insurance prior to use.

G. An advertisement for a policy containing graded or modified benefits shall prominently display any limitation of benefits. If the premium is level and coverage decreases or increases with age or duration, such fact shall be prominently disclosed. An advertisement of or for a life insurance policy under which the death benefit varies with the length of time the policy has been in force shall accurately describe and clearly call attention to the amount of minimum death benefit under the policy.

H. An advertisement for the types of policies described in (F) and (G) of this Section shall not use the words *inexpensive*, *low cost*, or other phrase or words of similar import when such policies are being marketed to persons who are 50 years of age or older, where the policy is guaranteed issue.

I. Premiums

(1) An advertisement for a policy with non-level premiums shall prominently describe the premium changes.

(2) An advertisement in which the insurer describes a policy where it reserves the right to change the amount of the premium during the policy term, but which does not prominently describe this feature, is deemed to be deceptive and misleading and is prohibited.

(3) An advertisement shall not contain a statement or representation that premiums paid for a life insurance policy can be withdrawn under the terms of the policy. Reference may be made to amounts paid into an advance premium fund, which are intended to pay premiums at a future time, to the effect that they may be withdrawn under the conditions of the prepayment agreement. Reference may also be made to withdrawal rights under any unconditional premium refund offer.

(4) An advertisement which represents a pure endowment benefit as a *profit* or *return* on the premium paid rather than as a policy benefit for which a specific premium is paid is deemed to be deceptive and misleading and is prohibited.

J. Analogies between a life insurance policy's cash values and savings accounts or other investments and between premium payments and contributions to savings accounts or other investments must be complete and accurate.

K. An advertisement shall not state or imply in any way that interest charged on a policy loan or the reduction of death benefits by the amount of outstanding policy loans is unfair, inequitable, or in any manner an incorrect or improper practice.

L. If nonforfeiture values are shown in any advertisement, the values must be shown either for the entire amount of the basic life policy death benefit or for each \$1,000 of initial death benefit.

M. The words *free*, *no cost*, *without cost*, *no additional cost*, *at no extra cost*, or words of similar import shall not be used with respect to any benefit or service being made available with a policy unless true. If there is no charge to the insured, then the identity of the payor must be prominently disclosed. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the premium or use other appropriate language.

N. No insurance producer may use terms such as *financial planner*, *investment advisor*, *financial consultant*, or *financial counseling* in such a way as to imply that he or she is generally engaged in an advisory business in which compensation is unrelated to sales unless such actually is the case.

O. Nonguaranteed Policy Elements

(1) An advertisement shall not utilize or describe nonguaranteed policy elements in a manner which is misleading or has the capacity or tendency to mislead.

(2) An advertisement shall not state or imply that the payment or amount of nonguaranteed policy elements is guaranteed. If nonguaranteed policy elements are illustrated, they must be based on the insurer's current scale and the illustration must contain a statement to the effect that they are not to be construed as guarantees or estimates of amounts to be paid in the future.

(3) An advertisement that includes any illustrations or statements containing or based upon nonguaranteed elements shall set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed elements.

(4) If an advertisement refers to any nonguaranteed policy element, it shall indicate that the insurer reserves the

right to change any such element at any time and for any reason. However, if an insurer has agreed to limit this right in any way; such as, for example, if it has agreed to change these elements only at certain intervals or only if there is a change in the insurer's current or anticipated experience, the advertisement may indicate any such limitation on the insurer's right.

(5) An advertisement shall not refer to dividends as *tax free* or use words of similar import, unless the tax treatment of dividends is fully explained and the nature of the dividend as a return of premium is indicated clearly.

P. An advertisement shall not state that a purchaser of a policy will share in or receive a stated percentage or portion of the earnings on the general account assets of the company.

Q. Testimonials, Appraisals, Analysis, or Endorsements by Third Parties

(1) Testimonials, appraisals or analysis used in advertisements must be genuine; represent the current opinion of the author; be applicable to the policy advertised, if any; and be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective insureds as to the nature or scope of the testimonial, appraisal, analysis or endorsement. In using testimonials, appraisals or analysis; the insurer or insurance producer makes as its own all of the statements contained therein, and such statements are subject to all the provisions of these rules.

(2) If the individual making a testimonial, appraisal, analysis or an endorsement has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee or otherwise, or receives any benefit directly or indirectly other than required union scale wages, such fact shall be prominently disclosed in the advertisement.

(3) An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by a group of individuals, society, association or other organization unless such is the fact and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial is owned, controlled or managed by the insurer, or receives any payment or other consideration from the insurer for making such endorsement or testimonial, such fact shall be disclosed in the advertisement.

R. An advertisement shall not contain statistical information relating to any insurer or policy unless it accurately reflects recent and relevant facts. The source of any such statistics used in an advertisement shall be identified therein.

S. Policies Sold to Students

(1) The envelope in which insurance solicitation material is contained may be addressed to the parents of students. The address may not include any combination of words which imply that the correspondence is from a school, college, university or other education or training institution nor may it imply that the institution has endorsed the material or supplied the insurer with information about the student unless such is a correct and truthful statement.

(2) All advertisements including but not limited to informational flyers used in the solicitation of insurance must be identified clearly as coming from an insurer or insurance

producer, if such is the case, and these entities must be clearly identified as such.

(3) The return address on the envelope may not imply that the soliciting insurer or insurance producer is affiliated with university, college, school or other educational or training institution, unless true.

T. Introductory, Initial or Special Offers and Enrollment Periods

(1) An advertisement of an individual policy or combination of such policies shall not state or imply that such policy or combination of such policies is an introductory, initial or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless such is the fact. An advertisement shall not describe an enrollment period as "special" or "limited" or use similar words or phrases in describing it when the insurer uses successive enrollment periods as its usual method of marketing its policies.

(2) An advertisement shall not state or imply that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy.

(3) An advertisement shall not offer a policy which utilizes a reduced initial premium rate in a manner which overemphasizes the availability and the amount of the reduced initial premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, all references to the reduced initial premium shall be followed by an asterisk or other appropriate symbol which refers the reader to that specific portion of the advertisement which contains the full rate schedule for the policy being advertised.

(4) An enrollment period during which a particular insurance policy may be purchased on an individual basis shall not be offered within this State unless there has been a lapse of not less than six months between the close of the immediately preceding enrollment period for the same policy and the opening of the new enrollment period. The advertisement shall specify the date by which the applicant must mail the application which shall be not less than 10 days and not more than 40 days from the date on which such enrollment period is advertised for the first time. This rule applies to all advertising media, i.e., mail, newspapers, radio, television, magazines and periodicals - by any one insurer or insurance producer. The phrase *any one insurer* includes all the affiliated companies of a group of insurance companies under common management or control. This rule does not apply to the use of an termination or cutoff date beyond which an individual application for a guaranteed issue policy will not be accepted by an insurer in those instances where the application has been sent to the applicant in response to his request. It is also inapplicable to solicitations of employees or members of a particular group or association which otherwise would be eligible under specified provisions of the Louisiana Insurance Code for group, blanket or franchise insurance. In cases where an insurance product is marketed on a direct mail basis to prospective insureds by reason of some common relationship with a sponsoring organization, this rule shall be applied separately to each sponsoring organization.

U. An advertisement of a particular policy shall not state or imply that prospective insureds shall be or become members of a special class, group, or quasi-group and as such enjoy special rates, dividends or underwriting privileges, unless such is the fact.

V. An advertisement shall not make unfair or incomplete comparisons of policies, benefits, dividends or rates of other insurers. An advertisement shall not disparage other insurers, insurance producers, policies, services or methods of marketing.

W. For individual deferred annuity products or deposit funds, the following shall apply:

(1) Any illustrations or statements containing or based upon interest rates higher than the guaranteed accumulation interest rates shall likewise set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed accumulation interest rates. Such higher interest rates shall not be greater than those currently being credited by the company unless such higher rates have been publicly declared by the company with an effective date for new issues not more than three months subsequent to the date of declaration.

(2) If an advertisement states the net premium accumulation interest rate, whether guaranteed or not, it shall also disclose in close proximity thereto and with equal prominence, the actual relationship between the gross and the net premiums.

(3) If any contract does not provide a cash surrender benefit prior to commencement of payment of any annuity benefits, any illustrations or statements concerning such contract shall prominently state that cash surrender benefits are not provided.

X. An advertisement of a life insurance product and an annuity as a single policy or life insurance policy with an annuity rider shall include the following disclosure or substantially similar statement at the point of sale before the application is taken; provided, however, if the policy contains an unconditional refund provision of at least 10 days, then the disclosure statement shall be delivered with or prior to the delivery of the policy, or upon the applicant's request, whichever occurs sooner. The disclosure shall include the first five policy years, the tenth and twentieth policy years, at least one age from 60 to 70, and the scheduled commencement of annuity payments:

YEAR	GROSS ANNUAL LIFE %	PREMIUM ANNUITY %	GUARANTEED CASH VALUE OF ANNUITY
1	%	%	\$
2	%	%	\$
3	%	%	\$
4	%	%	\$
5	%	%	\$
10	%	%	\$
20	%	%	\$
etc.	%	%	\$

Information in the disclosure statement shall be based on gross premium. The life and annuity percentages of the total gross premium shall equal 100 percent for each required duration. The guaranteed cash value of the annuity shall be the value at the end of the contract year. A copy of the disclosure statement shall be provided to the applicant.

Y. An advertisement for the solicitation or sale of a preneed funeral contract or prearrangement as defined in Section 3(H) above which is funded or to be funded by a life insurance policy or annuity contract shall adequately disclose the following:

(1) the fact that a life insurance policy or annuity contract is involved or being used to fund a prearrangement as defined in Section 3(H) of these rules; and

(2) the nature of the relationship among the soliciting agent or agents, the provider of the funeral or cemetery merchandise or services, the administrator and any other person.

Section 7. Identity of Insurer

A. The name of the insurer shall be clearly identified in all advertisements, and if any specific individual policy is advertised it shall be identified either by form number or other appropriate description. If an application is a part of the advertisement, the name of the insurer shall be shown on the application. An advertisement shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device or reference without disclosing the name of the insurer, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the insurer or create the impression that a company other than the insurer would have any responsibility for the financial obligation under a policy.

B. No advertisement shall use any combination of words, symbols or physical materials which by their content, phraseology, shape, color or other characteristics are so similar to a combination of words, symbols or physical materials used by a governmental program or agency or otherwise appear to be of such a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner connected with such governmental program or agency.

Section 8. Jurisdictional Licensing and Status of Insurer

A. An advertisement which is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond such limits.

B. An advertisement may state that an insurer or insurance producer is licensed in the state where the advertisement appears, provided it does not exaggerate such fact or suggest or imply that competing insurers or insurance producers may not be so licensed.

C. An advertisement shall not create the impression that the insurer, its financial condition or status, the payment of its claims or the merits, desirability, or advisability of its policy forms or kinds of plans of insurance are recommended or endorsed by a governmental entity. However, where a governmental entity has recommended or endorsed a policy form or plan, such fact may be stated if the entity authorizes its recommendation or endorsement to be used in an advertisement.

Section 9. Statements About the Insurer

An advertisement shall not contain statements, pictures or illustrations which are false or misleading, in fact or by implication, with respect to the assets, liabilities, insurance in force, corporate structure, financial condition, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any

commercial rating system unless it clearly defines the scope and extent of the recommendation.

Section 10. Enforcement Procedures

A. Each insurer shall maintain at its home or principal office a complete file containing a specimen copy of every printed, published or prepared advertisement of its individual policies and specimen copies of typical printed, published or prepared advertisements of its blanket, franchise and group policies, hereafter disseminated in this State, with a notation indicating the manner and extent of distribution and the form number of any policy advertisement. Such file shall be subject to inspection by this Department. All such advertisements shall be maintained in said file for a period of either four years or until the filing of the next regular report on the examination of the insurer, whichever is the longer period of time.

B. If the Department determines that an advertisement has the capacity or tendency to mislead or deceive the public, the Department may require an insurer or insurance producer to submit all or any part of the advertising material for review or approval prior to use.

C. Each insurer subject to the provisions of these rules shall file with this Department with its Annual Statement a certificate of compliance executed by an authorized officer of the insurer wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by or on behalf of the insurer in this State during the preceding statement year, or during the portion of such year when these rules were in effect, complied or were made to comply in all respects with the provisions of these rules and the Insurance Laws of this State as implemented and interpreted by these rules.

Section 11. Conflict With Other Rules

It is not intended that these rules conflict with or supersede any rules currently in force or subsequently adopted in this State governing specific aspect of the sale or replacement of life insurance including, but not limited to, rules dealing with life insurance cost comparison indices, deceptive practices in the sale of life insurance, and replacement of life insurance policies. Consequently, no disclosure required under any such rules shall be deemed to be an advertisement within the meaning of these rules.

Section 12. Severability

If any section, term or provision of this rule shall be adjudged invalid for any reason, such judgment shall not affect, impair or invalidate any other Section, term or provision of this rule, and the remaining Sections, terms and provisions shall be and remain in full force and effect.

Section 13. Effective Date

This regulation shall become effective January 1, 1997 and shall apply to any life insurance or annuity advertisement intended for dissemination in this State on or after the effective date.

A public hearing on this proposed regulation will be held on October 29, 1996, at 8:30 a.m., in the Plaza Hearing Room of the Insurance Building located at 950 North Fifth Street, Baton Rouge, LA. All interested persons will be afforded an opportunity to make comments.

Interested persons may submit oral or written comments to, Lester Dunlap, Assistant Commissioner, Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214,

telephone (504) 342-5415. Comments will be accepted through the close of business at 4:30 p.m., October 29, 1996.

James H. "Jim" Brown
Commissioner

Extraordinary Session of 1996 of the Louisiana Legislature. It is intended to protect the public from the risk of insolvent insurance companies by requiring companies issuing certain types of policies to provide an actuarial statement of opinion of loss and loss adjustment expense reserves.

Section 2. Authority

This regulation is promulgated by the Department of Insurance under the authority granted by Revised Statute, Title 22, Sections 3 and 904 and the Administrative Procedure Act, R.S. 49:950 et seq.

Section 3. Applicability and Scope

This regulation shall apply to any insurer which issues policies of personal injury liability insurance, policies of employer's liability insurance, and policies of workers' compensation insurance. Any insurer which issues any of these types of policies shall attach to page 1 of the Annual Statement required by R.S. 22:1451, the statement of the opinion of an associate or fellow of the Casualty Actuarial Society or other qualified loss reserve specialist, as to the reasonableness and sufficiency of loss and loss adjustment expense reserves. This statement shall be in accordance with the Section entitled "Statement of Actuarial Opinion" of the Annual Statement Instructions. Exemptions from this requirement shall be in accordance with the Annual Statement Instructions.

A public hearing on this proposed regulation will be held at 9 a.m., October 29, 1996, in the Plaza Hearing Room of the Insurance Building at 950 North Fifth Street, Baton Rouge, LA. All interested persons will be afforded an opportunity to make comments.

Interested persons may submit oral or written comments to Rod Friedy, Director, Actuarial Services and Reinsurance, Department of Insurance, Box 94214, Baton Rouge, LA 70824-9214, telephone (504) 342-1631. Comments will be accepted through the close of business at 4:30 p.m. on October 29, 1996.

James H. "Jim" Brown
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 60—Advertising of Life Insurance

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

It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing this proposed regulation. Any new duties imposed upon the Department by this proposed regulation would be handled by existing personnel.

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

Adoption of this proposed amendment will not have any effect on revenue collections by the local governmental units. No provisions in the proposed regulation call for fines or other fees; therefore there would be no additional revenue generated for the state.

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

It is possible that this proposed amendment could impose additional costs on insurers; however, there is insufficient data available to determine the amount of such costs, if any.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that adoption of this proposed regulation would have any effect on employment or competition.

Brenda St. Romain
Assistant Commissioner
Management and Finance
9609#067

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance
Commissioner of Insurance

Regulation 61—Statement of Actuarial Opinion

Under the authority of R.S. Title 22, Sections 3 and 904, the Department of Insurance gives notice that the following proposed regulation is to be adopted effective December 20, 1996. This intended action complies with the statutory law administered by the Department of Insurance.

Proposed Regulation 61

Statement of Actuarial Opinion

Section 1. Purposes

The purpose of this regulation is to provide for the implementation and administration of the provisions of R.S. 22:904, concerning actuarial certification of loss reserves, which statute was enacted by Act No. 71 of the First

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Statement of Actuarial Opinion Regulation 61

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

It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing this proposed regulation.

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 state or local governmental units.

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

It is not anticipated that the proposed regulation would impose additional costs or create an economic benefit to insurers or any other nongovernmental group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that adoption of this proposed regulation would have any effect on employment or competition.

Brenda St. Romain
Assistant Commissioner
Management and Finance
9609#038

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Commissioner of Insurance

Repeal of Certain Existing Rules and Regulations

Under the authority of R.S. 22:3 and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance (the "department") gives notice that the following existing rule and regulations of the Department are to be repealed effective December 20, 1996. This intended action complies with the statutory law administered by the Department.

Proposed Regulation Repealing An Existing Rule and Certain Existing Regulations of the Department of Insurance

Section 1. Purpose

The purpose of this regulation is to repeal an existing rule and certain existing regulations of the Department of Insurance (the "Department") deemed no longer needed by the Department.

Section 2. Authority

This regulation is promulgated by the Department of Insurance under the authority granted by Louisiana Revised Statutes (La. R.S.) Title 22, Section 3 and the Administrative Procedure Act, La. R.S. 49:950 et seq.

Section 3. Rule Repealed

Rule 2—Malpractice Self-Insurance of the Department is hereby repealed in its entirety. This rule set forth requirements for proof of financial responsibility of self-insured health care providers.

Section 4. Regulations Repealed

The following regulations of the Department are hereby repealed in their entirety:

Regulation 1 Requirements for Qualification of Domestic Insurers

This regulation provides a list of documents which must be filed with the Commissioner of Insurance.

Regulation 2 Requirements for Qualification of a Foreign or an Alien Insurer

This regulation provides a list of information and documents which must be filed with the Commissioner of Insurance. It also provides a list of fees and taxes payable to the Commissioner of Insurance.

Regulation 4 Unauthorized Insurance

This regulation places limitations on insurance contracts covering residents or property or risks in a reciprocal state unless the insurer was authorized in such reciprocal state.

Regulation 5 Warning Public Regarding Placing Insurance with Unauthorized Insurers

This regulation points out for consumers the difference between purchasing insurance from authorized versus unauthorized companies.

Regulation 6 Tax on Fire Insurance

This regulation states that all companies writing fire insurance are statutorily mandated to pay a 2 percent tax on the premiums written.

Regulation 7 Profit-Sharing Policies

This regulation bans the use of advertising material or statements or representations by life insurance agents or company representatives which indicate expected earnings to the policyholder and prospects based on unreasonable earnings by the company.

Regulation 8 Profit-Sharing Policies

This regulation concerns representations made in connection with the sale of life insurance policies providing survivorship benefits, with the amount of such benefits being dependent upon several hypothetical factors, including lapse expectancy. It cautions all insurers to see that their agents emphasize that returns dependent upon lapse ratio constitutes an estimate only and does not represent a fixed or guaranteed return, and it also required these agents to use examples which are based upon credible contingency and reasonable probability in illustrating hypothetical benefits possible under the policy.

Regulation 10 Requiring New Policies Issued by Non-Profit Associations to Conform to Minimum Standards; No New Companies

This regulation prohibits the formation of new non-profit funeral service associations. This was done in response to new legislation, and provides that such companies will be subject to the laws and regulations regarding industrial life insurance companies.

Regulation 11 Licensing of Agents Prior to Their Soliciting of Insurance Applications

This regulation warns insurance companies that both the insurer and a non-licensed person soliciting insurance for the insurer will be held responsible for violation of laws regarding licensing of agents.

Regulation 12 Sale of Insurance Stock and Certain Investment Company Stock

This regulation requires companies who desire to engage in the sale of insurance securities, and securities in an investment or holding company which has proposed forming an insurance company, are required to comply with Act Number 83 of 1958 and any rules and regulations promulgated with reference thereto.

Regulation 13 Legislation Affecting all Domestic Insurance Companies

This regulation provides the insurance industry with a list of acts passed by the 1958 Legislature which affect the industry.

Regulation 20 Mandatory Uninsured Motorists' Coverage Unless Insured Rejects

This regulation supplements Act Number 187 of 1962 requiring uninsured motorists' coverage on all policies delivered on or after October 1, 1962. Additionally,

companies are required to submit a statement of intention to comply with the law.

Regulation 22 Industrial Companies: Funeral Benefit Policies

This regulation required funeral benefit policies issued after July 29, 1964 to contain a new provision mandated by Act 124 of 1964. This provision mandated, for industrial companies, that the policy contain a stated cash payment of the refund of all premiums if the beneficiary did not use the services as set forth in the funeral policy.

Regulation 23 Service Companies: Funeral Benefit Policies

This regulation required funeral benefit policies issued after July 29, 1964 to contain a new provision mandated by Act 125 of 1964. This provision mandated, for service companies, that the policy contain a stated cash payment of the refund of all premiums if the beneficiary did not use the services as set forth in the funeral policy.

Regulation 26 Credit Life and Credit Health and Accident

This regulation provided methods for the calculation of reserves for credit insurance.

Regulation 37 Regulation of HMO Agents

This regulation defined an HMO agent.

Regulation 50 Miscellaneous Accreditation Standards

This regulation implemented changes recommended by the National Association of Insurance Commissioners relating to the Financial Regulation Standards and Accreditation Program.

A public hearing on this proposed regulation will be held on October 29, 1996, at 9:30 a.m., in the Plaza Hearing Room of the Insurance Building located at 950 North Fifth Street, Baton Rouge, LA. All interested persons will be afforded an opportunity to make comments.

Interested persons may obtain a copy of this proposed regulation from, and may submit oral or written comments to Lester Dunlap, Assistant Commissioner, telephone (504) 342-5415 or Barry Karns, Deputy General Counsel, telephone (504) 342-4673, Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214. Comments will be accepted through the close of business at 4:30 p.m. October 29, 1996.

James H. "Jim" Brown
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Repeal of Certain Existing Rules and Regulations

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that the Department of Insurance will incur any costs or savings as a result of the repealing of these rules and regulations.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Adoption of the proposed repealing of these rules and regulations will not have any effect on revenue collections by the state or local governmental units.

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

It is not anticipated that the proposed repealing of these rules and regulations would impose additional costs or create an economic benefit to insurers or any other nongovernmental group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that adoption of this proposed repealing of these rules and regulations would have any effect on employment or competition.

Brenda St. Romain
Assistant Commissioner
Management and Finance
9609#066

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Labor
Office of Workers' Compensation**

Hearing Officer Rules (LAC 40:I.Chapter 21)

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.2123.D.

The amendment to this rule will prevent unnecessary burdens upon the Workers' Compensation hearing process.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than October 20, 1996, at 4:15 p.m., to Ronald L. Menville, Director, Office of Workers' Compensation, Box 94040, Baton Rouge, LA 70804-9040 or 1001 North Twenty-third Street, Baton Rouge, LA 70802 or to FAX number (504) 342-5665.

Ronald L. Menville
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Hearing Officer Rules

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no additional identifiable costs or savings accruing in aggregate state or local governmental units as a result of implementing this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no expected effect on revenue collection of state and governmental units as a result of implementing this rule.

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

This rule will prevent an undue burden on the Workers' Compensation system by prohibiting the filing of class action suits in the Workers' Compensation hearing districts. Employees will retain the right to file individual claims with the hearing district and therefore do not lose any right to assert a claim for benefits.

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.

Ronald L. Menville
Director
9609#036

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Board Hearings (LAC 42); Repeal of Video Draw Poker Hearings and Sanction Procedures (LAC 42:XI.24233); Repeal of Gaming Enforcement Division Procedure for Riverboat License and Permit Hearings (LAC 42:XIII.2167)

The Gaming Control Board hereby gives notice that it intends to adopt a §108 under LAC 42, Part and Chapter to be determined later, and to repeal LAC 42:XIII.2167 and LAC 42:XI.2423.

**Title 42
LOUISIANA GAMING**

§108. Board Hearings

A. Any person against whom an administrative action is proposed, and any person against whom an enforcement action is taken, may request a hearing by filing a written request with the board. The request shall be filed within 10 days of the date of receipt of the certified mailing or personal service of the notice of proposed action or within 10 days of the date the enforcement action is taken. All hearings requested and any matter the board determines should be heard in a public hearing shall be conducted in accordance with this Section.

B.1. A hearing will be conducted in accordance with procedural and evidentiary rules contained in the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Gaming Control Law, 1996 La. Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and rules promulgated in accordance therewith.

2. No discovery request shall be made within 20 days of the date scheduled for the hearing.

3. Hearings may be conducted by hearing officers employed by or under contract with the board.

C. 1. Hearing requests shall be promptly docketed and scheduled for hearing.

2. The requesting party shall be notified of the time, date and location of the hearing by certified mail or personal service.

D.1. Testimony taken at a hearing shall be under oath.

2. Depositions may be used at hearings as provided in the Administrative Procedure Act, R.S. 49:950 et seq.

E. A report shall be prepared in accordance with the provisions of R.S. 27:25 and submitted to the board within 60 days of the notice of any enforcement action involving suspending or conditioning a license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Gaming Control Board, LR 22:

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2423. Hearings and Sanction Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), repealed LR 22:

Part XIII. Riverboat Gaming

**Subpart 2. State Police Riverboat Gaming
Enforcement Division**

Chapter 21. Licenses and Permits

§2167. Procedure for Hearings by the Division

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:705 (July 1995), repealed LR 22:

All interested persons may contact Tom Warner, Deputy Director, Attorney General's Gaming Division, (504) 342-2465, and may submit written comments relative to these proposed rules through October 10, 1996, to 339 Florida Street, Suite 402, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Hearings, Sanctions, Licenses and Permits

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

There are no implementation costs to state or local government units estimated.

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

There is no effect on revenue collections of state or local government units.

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

No costs and/or economic benefits to directly affected persons or nongovernmental groups is estimated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
9609#023

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue and Taxation
Income Tax Commission**

**Remittance of Tax Under Protest; Suits to Recover
(LAC 61:I.4907)**

Under the authority of R.S. 47:1576 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is given that the Department of Revenue and Taxation proposes to adopt LAC 61:I.4907 concerning remittance of tax under protest and the suits to recover.

This proposed regulation deals with the ambiguities not directly addressed by R.S. 47:1576(B) by expressly providing three options for giving notification of amounts of income tax or corporation franchise tax paid under protest and the intent to file suit for recovery.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue and Taxation**

Chapter 49. Tax Collection

§4907. Remittance of Tax Under Protest; Suits to Recover

A. For the purposes of this Section, estimated taxes shall include any amounts paid on account of a tax prior to the due date or extended due date of the return required for such tax. Estimated taxes shall also include overpayments of income tax designated on the prior year's return as an amount of overpayment to be credited to the next year's return. The term shall not include any other credits, including, but not limited to, enterprise zone credits or inventory tax credits.

B. R.S. 47:1576(B) makes specific provisions for income and corporation franchise taxes paid under protest. This regulation addresses the ambiguities not directly addressed by R.S. 47:1576(B) by expressly providing three options for giving notification of amounts of income tax or corporation franchise tax paid under protest and the intent to file suit for recovery.

1. Under the first option a taxpayer may make payments of estimated income and franchise taxes under protest and at that time give notice of intent to file suit for recovery. The

amount paid under protest will be placed in an escrow account upon receipt of the notice. This is the method that has generally been required prior to this regulation. It is not the intent of this regulation to change any procedures that existed prior to this regulation if the taxpayer chooses to follow this option.

2. Under the second option a taxpayer may consider, for purposes of this option only, payments of estimated taxes and, in the case of individual income tax, withholding taxes as required deposits that do not become payments of the income or franchise taxes until they are so designated on the income or franchise tax return filed for the taxable period. Under this option the taxpayer must make notification of the amount of tax being paid under protest and the intent to file suit for recovery at the time the return for the taxable period is filed. This notification should be in duplicate, once with the return and again as a separate notification to the secretary. The amount designated as paid under protest will be placed in an escrow account upon receipt of the notice. This regulation does not extend or modify the time within which the taxpayer must file suit as provided by R.S. 47:1576(B).

3. The third option available to a taxpayer is to use a combination of the first two options. The fact that a taxpayer designates some estimated payments as payments under protest and makes the appropriate notification at the time of the estimated payment under the first option listed above will not preclude use of the second option with regard to additional amounts the taxpayer wishes to pay under protest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1576.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Division, LR 22:

All interested persons may submit data, views, or arguments, in writing to Kenneth Comeaux, Director of the Income Tax Division, Department of Revenue and Taxation, Box 201, Baton Rouge, LA 70821. All comments must be submitted by 4:30 p.m. Monday, October 28, 1996. A public hearing will be held on Tuesday, October 29, 1996 at 10 a.m., in the Department of Revenue and Taxation Secretary's Conference Room, 330 North Ardenwood Drive, Baton Rouge, LA.

Kenneth Comeaux
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Remittance of Tax Under Protest;
Suits to Recover**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this proposed rule will have no impact on the department's costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This proposed rule should have no effect on the state's revenue collections.

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

This proposed rule should have no effect on costs or economic benefits to taxpayers who pay taxes under protest and file suits to recover.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should have no fiscal impact on competition or employment.

John Neely Kennedy
Secretary
9609#071

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Family Independence Project (LAC 67:III.1301)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.Subpart 2, the Aid to Families with Dependent Children (AFDC) Program.

Pursuant to ACT 998 and 1219 of the 1995 Regular Session of the Louisiana Legislature, the department will implement the Family Independence Project (FIP) which provides new AFDC policies regarding medical immunization and school attendance requirements, time-limited benefits, and refusal to accept full-time employment. A federal waiver authorizes the department to enact these provisions which will operate as a statewide project for all applicants and recipients for six years beginning January 1997. The only exception as designated by the waiver will be a control group for the purpose of study and evaluation.

The federal waiver requires continuation of medical benefits for recipients who are otherwise eligible for AFDC. If the AFDC grant is reduced or terminated for failure to comply with Family Independence Project requirements, Medicaid eligibility shall not be affected.

Whereas this action provides measures to reform the AFDC Program and promote independence and responsibility in recipients and whereas other measures are anticipated, such rules shall be promulgated and amended as Chapter 13 of LAC 67:III.Subpart 2.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 2. Aid to Families with Dependent
Children (AFDC)**

Chapter 13. Special Conditions of Eligibility

Subchapter A. Family Independence Project (FIP)

§1301. Terms and Conditions

A. Time Limitations. The Office of Family Support shall deny AFDC cash benefits to families if the parent has received AFDC for at least 24 months during the prior 60-month period. Only months of AFDC receipt after the January 1,

1997 date of implementation count toward the 24-month limit. This provision does not apply in the following situations (in two parent households both parents must meet at least one of these criteria):

1. the parent is incapacitated or disabled;
2. the parent has been actively seeking employment by engaging in job-seeking activities and is unable to find employment;
3. factors relating to job availability are unfavorable;
4. the parent loses his job as a result of factors not related to his job performance; or
5. an extension of benefits of up to one year will enable the adult to complete employment related education or training.

B. Sanctions for Refusal to Accept a Job. Eligibility for AFDC shall be terminated for three months if a parent in the assistance unit declines or refuses the opportunity for full-time employment without good cause. The three month sanction period counts as months of AFDC receipt when applying the 24-month time limit.

C. Immunization. Failure to follow the schedule of immunizations as promulgated by the Louisiana Office of Public Health for any child under 18 years of age, without good cause, shall result in the child's removal from the AFDC grant until the child has received the required immunizations, or in the case of an immunization that requires a series of injections, has begun to receive the injections. No person is required to comply with this provision if that person or their parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or their parent or guardian objects to the procedure on religious grounds.

D. School Attendance. At redetermination a child who has missed 15 days of school without good cause during the previous six-month period shall be placed in a probationary status. The child remains in a probationary status for at least six months. If during the probationary period a child is absent from school for more than three days in a given calendar month without good cause, the child's needs shall be removed from the AFDC grant until documentation that the child's attendance meets the requirements is provided.

E. Assistance is not denied to an incapacitated or disabled individual in an assistance unit/household which is subject to the time limitation provision or sanction for refusal to accept employment. Assistance for the incapacitated or disabled individual continues as long as the family continues to meet all other AFDC eligibility requirements.

F. All individuals determined ineligible under any of these provisions shall retain the same Medicaid eligibility that they would have had in the absence of the project.

G. All applicants and recipients are subject to the provisions of the project, unless otherwise stated, except for a control group for whom the provisions shall not apply. This group is required for the purpose of research and evaluation by the federal waiver which authorizes FIP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:447.3, 46:460, 46:474, 46:477, 46:239, 46:459.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:

Interested persons may submit written comments within 30 days to: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-9065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on October 29, 1996, in the Second Floor Auditorium at the Department of Social Services, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, telephone 504-342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Family Independence Project**

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

The immediate cost of implementation is estimated to be under \$1000. Fiscal impact will be minimal for the immunization requirement. Time-Limited benefits would not have a fiscal impact until FY 98/99 at which time there is a projected grant savings of \$785,085 in state funds and \$1,956,135 in federal. Grant savings for the school attendance requirement is estimated to be \$383,981 in state funds for FY 97/98 and \$956,735 in federal funds, and approximately \$708,957 savings in state funds for FY 98/99 with \$1,766,451 in federal. Schools and local school boards may have an increase in administrative costs due to paperwork, but the amount cannot be determined. The grant savings for refusal to accept employment is as follows: FY 96/97 \$50,720 state, \$126,376 federal; FY 97/98 and FY 98/99 \$101,306 state, \$252,415 federal. An additional cost for evaluation, paid at 50 percent from state and federal funds, is estimated to be \$150,000 per year.

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

Since the amount paid in grants will be reduced, there will be reductions in federal reimbursements received by the state. Loss of federal reimbursements are estimated to be \$51,376 for FY 96/97, \$1,134,150 for FY 97/98 and \$3,900,001 for FY 98/99.

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

Recipients of AFDC may be affected by these proposed changes in policy.

Recipients will have the burden of providing proof of immunization and school attendance. This, however, could result in improved school attendance and a healthier population as more children will be immunized on schedule.

With limited benefits, recipients could lose eligibility; however, they could become more self-sufficient. If a recipient refuses an offer of full time employment they could lose benefits for three months or they may be encouraged to accept employment.

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

None anticipated.

Vera W. Blakes
Assistant Secretary
9609#083

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Individual and Family Grant Program
(LAC 67:III.4702 and 4703)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III Subpart 10, Individual and Family Grant (IFG) Program.

Pursuant to changes at 44 CFR 206.131, a minimum damage threshold of \$201 has been established. Also, a Group Flood Insurance Policy (GFIP) has been established which will apply to those recipients who are mandated to purchase flood insurance as a condition of receiving an IFG award.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 10. Individual and Family Grant Program
Chapter 47. Application, Eligibility, and Furnishing
Assistance**

**Subchapter C. Need and Amount of Assistance
§4702. Flood Insurance**

D. A Group Flood Insurance Policy (GFIP), a policy covering all individuals named by a state as recipients of an IFG Program award for flood damage, has been established. The criteria for determining who is required to purchase flood insurance has not changed.

1. The amount of coverage provided by the GFIP will be equivalent to the IFG maximum grant and will cover both homeowners and renters.

2. The amount of coverage is adjusted annually according to the Consumer Price Index.

3. Implementation of the GFIP will be at the time of the disaster declaration and coverage will begin 60 days from the date of the disaster declaration.

4. Term of coverage will be 36 months from the inception date of the GFIP.

5. Coverage for IFG recipients will begin on the 30th day after the National Flood Insurance Program (NFIP) receives the premium payment from the state.

6. Premium is set at \$200 for each individual or family, but may be adjusted thereafter to reflect NFIP loss experience and any adjustment of benefits under the IFG Program.

7. Premium sent to the NFIP on behalf of the recipient is considered as part of the grant.

8. Homeowners must maintain flood insurance coverage on the residence at the flood-damaged property address for as long as the structure exists, even if ownership of the property changes.

9. Renters must maintain flood insurance coverage on the contents for as long as the renter resides at the flood-damaged property address.

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131 and P.L. 93-288.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:444 (June 1989), LR 15:744 (September 1989), amended by the Office of Family Support, LR 17:474 (May 1991), LR 17:766 (August 1991), LR 17:888 (September 1991), LR 18:939 (September 1992), LR 18:1351 (December 1992), LR 19:167 (February 1993), LR 19:213 (February 1993), LR 19:606 (May 1993), LR 19:784 (June 1993), LR 20:449 (April 1994), LR 21:402 (April 1995), LR 22:

§4703. Minimum Damage Threshold

A minimum damage threshold of \$201 or more in real or personal property losses, resulting from any type of incident, must be met in order to be eligible for an IFG Program grant.

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:

Interested persons may submit written comments within 30 days to: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-9065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on October 29, 1996 at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, telephone 504-342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Individual and Family Grant Program

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is a minimal cost to state government. The only cost associated with this rule is the charge for publishing this notice and final rule as the IFG Program incurs costs only in the event of a disaster declaration. There are no savings to the state. The rule has no economic impact on local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collection 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 cost or economic benefit to any nongovernmental groups. First time recipients in flood disasters will have the cost of GFIP included as part of their grant amount.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The rule will have no impact on competition or employment.

Vera W. Blakes
Assistant Secretary
9609#084

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Minor Parents (LAC 67:III.1137 and 1138)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.Subpart 2, the Aid to Families with Dependent Children (AFDC) Program.

Pursuant to 45 CFR 233.107 of the Public Welfare Code of Federal Regulations, the department will impose certain restrictions in payment to households headed by a minor unmarried parent in order to encourage these minor parents to remain under the supervision of responsible adults.

LAC 67:III.1137 (Minor Parents) is being updated to reflect existing changes in the age of a minor child to age 18 and to remove the phrase "or legal guardians".

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Aid to Families with Dependent Children (AFDC)

Chapter 11. Application, Eligibility and Furnishing Assistance

Subchapter B. Coverage and Conditions of Eligibility §1137. Minor Parents

Effective January 1, 1987, AFDC will not be denied to an otherwise eligible child solely because he is legally married or emancipated so long as his parent is responsible for his care and control. If a minor parent up to age 18, even if legally married or emancipated, lives with his/her parent(s), income must be deemed from the minor parent's parents.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 233.20(a)(3)(xviii).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:678 (October 1986), amended by the Department of Social Services, Office of Family Support, LR 22:

§1138. Restriction in Payment to Households Headed by a Minor Unmarried Parent

Eligibility for assistance for minor unmarried parents shall require that the individual and dependent child reside in the residence of the individual's parent, legal guardian, other relative, or in a foster home, maternity home or other adult-supervised supportive living arrangement, and that where possible, aid shall be provided to the parent, legal guardian or

other adult relative on behalf of the individual and dependent. The following exceptions apply:

1. the minor parent has no parent or guardian (of his or her own) who is living and whose whereabouts are known;
2. no living parent or legal guardian allows the minor parent to live in his/her home;
3. the minor parent lived apart from his/her own parent or legal guardian for a period of at least one year before the birth of the dependent child or the parent's having made application for AFDC;
4. the physical or emotional health or safety of the minor parent or dependent child would be jeopardized if he/she resided in the same household with the parent or legal guardian;
5. there is otherwise good cause for the minor parent and dependent child to receive assistance while living apart from the minor parent's parent, legal guardian or other adult relative, or an adult-supervised supportive living arrangement.

AUTHORITY NOTE: Promulgated in accordance with 45CFR §233.107.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:

Interested persons may submit written comments within 30 days to: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-4065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on October 29, 1996, in the Second Floor Auditorium of the Department of Social Services, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call telephone 504-342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Minor Parents**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
While it is anticipated that some minor unmarried parents will meet the exceptions and some will return to a suitable living arrangement, it is impossible to determine how many. Therefore for the purpose of determining fiscal impact, the assumption is that all cases would be adversely affected (180 cases; one child per case; the urban flat grant of \$138 for two).
Fiscal year 96/97 would have a projected savings of state funds of \$42,685; fiscal years 97/98 and 98/99 would have a state fund savings of \$85,370.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Because the amount paid in grants will be reduced, there will be reductions in federal reimbursements received by the state.

Loss of reimbursements are estimated to be \$106,355 for FY 96/97 and \$212,710 for FY's 97/98 and 98/99.

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

This will encourage minor unmarried parents to remain in the home with a parent, guardian, other qualified relative, or in an adult-supervised living arrangement where they can receive support at a much needed time in their life. Minor unmarried parents need adult guidance and supportive familial environments to help them be responsible parents, stay in school and prepare for independent living. Studies show that minor unmarried parents that receive nurturing, support, structure, discipline and socialization in a positive family environment improve their chances for successful, productive lives.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no impact anticipated on competition and employment.

Vera W. Blakes
Assistant Secretary
9609#081

H. Gordon Monk
Chief Coordinator to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Parenting Skills Education (LAC 67:III.1136 and 1509)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.Subpart 2, the Aid to Families with Dependent Children (AFDC) Program.

Pursuant to 45CFR 233.10 (a)(1)(ii)(B) of the Public Welfare Code of Federal Regulations and to further encourage responsible parenting in the AFDC population, the agency proposes to require that parents under the age of 20 attend a parenting skills training program as a condition of eligibility.

Because the Parenting Skills Program as initially implemented is no longer voluntary, §1509 is being repealed.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 2. Aid to Families with Dependent
Children (AFDC)**

**Chapter 11. Application, Eligibility, and Furnishing
Assistance**

**Subchapter B. Coverage and Conditions of Eligibility
§1136. Parenting Skills Education**

As a condition of eligibility for AFDC benefits any parent under age 20 must attend a parenting skills education program provided by the Office of Family Support or provide proof of attendance of this type of training provided by another recognized agency or source. Failure to meet this requirement without good cause shall result in ineligibility for inclusion in the assistance unit. Ineligibility will continue until compliance is demonstrated. Individuals deemed ineligible under this provision will retain the same Medicaid eligibility that they would have had in the absence of this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:920.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19:351 (March 1993), amended LR 22:

Chapter 15. General Program Administration
Subchapter D. Parenting Skills Program
§1509. Availability

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:290.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19:351 (March 1993), repealed LR 22:

Interested persons may submit written comments within 30 days to: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on October 29, 1996, in the Second Floor Auditorium of the Department of Social Services, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call telephone 504-342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Parenting Skills Education

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed rule will increase program costs by \$2,195 in FY 96/97. No costs or savings can be projected for subsequent years. It is expected that recipients will attend the required training rather than face a loss of benefits. Agency staff will work with these parents to schedule training sessions which do not conflict with employment or school attendance. Further, parents having good cause for delay in attending a training session will not be denied assistance.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
State revenue collection for the implementation year will increase federal funding by approximately 50 percent of the anticipated cost.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Recipients of AFDC would be affected by these proposed changes in policy. If they fail to comply, the parent will lose their share of the AFDC cash grant. Existing programs that offer parenting skills education can anticipate an increase in participation but cost increase cannot be anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment.

Vera W. Blakes,
Assistant Secretary
9609#082

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury
Board of Trustees of the Teachers' Retirement System

**Mandatory Submission of Contribution Reports on
Computer Tape/Diskette (LAC 58:III)**

In accordance with the authority granted the Board of Trustees of the Teachers' Retirement System, in R.S. 11:873(2), notice is hereby given that Teachers' Retirement System of Louisiana (TRSL) intends to adopt the following rule to be effective January 1, 1997, for reporting employees' contributions to TRSL.

All employers with 125 or more employees being reported must submit information to TRSL by computer tape/diskette in the manner described below.

Each month the employer shall certify to the Board of Trustees, by means of computer tape/diskette, the amounts of salary and deductions from the employees' salaries to be paid to the annuity savings fund and credited to the individual accounts of members from whose compensation the deductions were made. All computer tape/diskette formats and specifications must be in accordance with criteria established by TRSL. Both computer tapes/diskettes and printed copies thereof must be submitted by the 15th of the month following the end of the month covered by the report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:873(2)

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:

Interested persons may comment on the proposed rule in writing until 4:00 p.m., November 29, 1996, at the following address: Bonita B. Brown, CPA; Assistant Director; Teachers' Retirement System of Louisiana; Box 94123; Baton Rouge, LA 70804-9123.

James P. Hadley, Jr.
Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
**RULE TITLE: Mandatory Submission of Contribution
Reports on Computer Tape/Diskette**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Each of the 16 affected local school boards will spend less than \$500 to create a computer record of their employees' retirement contributions. All affected school boards already have computerized payroll records.

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

There will be no effect on revenue collections.

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

There is no expected cost to affected persons or nongovernmental groups. Affected persons will benefit by a more accurate record of their contributions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

James P. Hadley, Jr.
Director
9609#078

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury Board of Trustees of the Teachers' Retirement System

Voluntary Deductions from Retiree Benefits Payroll (LAC 58:III)

In accordance with the legal authority granted under R.S. 11:821 that provides for the general administration and responsibility for the proper operation of the retirement system, the Board of Trustees of the Teachers' Retirement System of Louisiana (TRSL) hereby provides notice of its intention to adopt the following rules to establish a program of voluntary deductions from the retiree benefits payroll.

General

Any TRSL retiree, beneficiary or survivor is eligible to participate in a program established for the voluntary deduction from his/her retirement benefit for life, health, supplemental, dental, cancer or other insurance premiums and for deductions for savings, loans, or other payments to be sent to banks and credit unions.

Application Process

1. Application for participation in the program must be made by the insurance carrier, bank, or credit union which is the provider of the coverage, product, service or depositor of monies and shall be signed by two officers of the company, bank or credit union. The completed application must be submitted to TRSL for approval prior to any deductions being withheld from the retiree's monthly benefit.

Requirements:

1. Domestic companies shall:
 - (a) have been licensed to do business in the state of Louisiana for not less than five years;
 - (b) have a current rating in A. M. Best of B or better;
 - (c) have been doing business under the same name for not less than three years;
 - (d) provide a like product, service, or coverage to citizens of Louisiana;
 - (e) be in compliance with all procedural, accounting, and reporting requirements governing employee deductions.
2. Foreign companies shall:
 - (a) have been licensed to do business in the state of

Louisiana for not less than five years;

(b) have a current rating in A. M. Best of B+ or better;

(c) have been doing business under the same name for not less than three years;

(d) offer a like product, service, or coverage to citizens of Louisiana;

(e) be in compliance with all procedural, accounting, and reporting requirements governing employee deductions.

3. Companies/credit unions must be regulated by the Department of Insurance or the Office of Financial Institutions.

4. Companies/credit unions are responsible for submitting a computer diskette of monthly deductions to TRSL by the 12th day of the month preceding the month for which the deduction will be made using the format and specifications established by TRSL. Diskettes received after the 12th day will not be processed. (Magnetic tapes will be accepted only under certain conditions). All deductions for a single vendor shall be submitted on one monthly diskette and the retiree will be allowed only one monthly deduction per vendor. This deduction may cover more than one product for a single vendor. Only deductions received on computer tape/diskette will be processed.

5. Companies/credit unions shall be responsible for obtaining and maintaining appropriate deduction authorization from individual retirees. Copies shall be made available to TRSL upon request.

6. Companies/credit unions are responsible for contract/loan terms between companies/credit union and retirees. TRSL assumes no responsibility for the contract or terms of agreement.

7. Retirees may discontinue any voluntary payroll deduction from their monthly benefit check by providing written notification to the vendor.

8. A retiree cannot authorize total deductions which would cause the net amount of the benefit to fall below \$5.

9. Companies/credit unions must have a minimum of 50 TRSL retirees to participate in the program. However, companies will be allowed six months after initial approval to meet the minimum participation requirements.

10. TRSL will not deduct monthly premium amounts for any retiree who owes monies to TRSL or has their benefit suspended.

11. Companies/Credit Unions shall notify TRSL immediately upon learning of the death of a retiree. In the event TRSL has remitted funds to the company/credit union after the death of a retiree and these funds were not due the retiree, company/credit union shall refund said monies to TRSL after notification.

12. Upon learning of the death of a retiree, even if not notified by the company/credit union, TRSL shall be refunded any monies transmitted but not due after notification. The company/credit union will accept the certification of TRSL as to date of death of retiree as sufficient evidence of date of death in regard to any funds owed to TRSL.

Disclaimer:

1. The company/credit union is prohibited from stating that any product offered has been endorsed or approved by TRSL.

Transmittal of Withheld Amounts

1. Amounts will normally be transmitted to company/credit union by wire transfer by the 10th of each month. If the 10th is a week-end, the first working day after the 10th will be the date of transmittal. In the event of computer/technical production problems beyond the control of TRSL, it is possible that transmittal of funds would not be made on the 10th day of the month.

2. TRSL will provide the company/credit union a computer print-out of the names of individuals, social security numbers and the amounts withheld.

3. TRSL may adjust print-out totals by amounts owed TRSL due to death of an individual. These individuals will be identified by name and social security number.

Termination of Payroll Deduction

1. The Board of Trustees may terminate the voluntary payroll deduction program by providing the company/credit union with at least 30 days written notice.

2. Immediately upon notice from TRSL individual company/credit unions may be terminated for unethical conduct or practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:

Interested persons may comment on the proposed rule in writing until 4:00 p.m., November 29, 1996, at the following address: Bonita B. Brown, CPA; Assistant Director; Teachers' Retirement System of Louisiana; Box 94123; Baton Rouge, LA 70804-9123.

James P. Hadley, Jr.
Director

NOTICE OF INTENT

**Department of Treasury
Bond Commission**

Line of Credit

The State Bond Commission (the Commission) proposes to amend Rule 15 of the original Commission rules as follows:

15. Line of Credit - a cash line of credit is an authorization to a State agency to proceed with a project and draw from the State Treasury funds for the project prior to the sale of bonds for that project. The maximum amount of lines of credit in any fiscal year which may be authorized by the Commission shall be the amount set forth in the comprehensive capital outlay act adopted by the legislature. Bonds shall be issued to replenish lines of credit granted in the fiscal year in which the line of credit was granted. No lines of credit may be granted for a project unless and until either the bonds have been sold, lines of credit have been granted, or a certificate of impossibility and impracticality has been issued for all projects of higher priority as stated in the comprehensive capital budget adopted by the legislature. The maximum amount of lines of credit provided herein shall not apply in cases where the Commission shall deem an item to be an emergency matter.

Monies advanced on a line of credit for any project shall be spent only in accordance with the description in the bond authorization act authorizing bonds to be issued for that project.

Prior to the execution of any contract or agreement obligating the expenditure of monies received by any state department or agency or any other entity from line of credit funds, the Attorney General's office shall be requested to review such proposed contracts or agreements for the sole purpose of determining whether expenditure of funds thereunder is for the purpose of furthering the applicable project adopted by the legislature. If given, such prior approval by the Attorney General's office shall be in writing to the appropriate state department, agency or other entity with a copy to be furnished to the State Bond Commission.

Should the Attorney General's office determine that the proposed expenditure of line of credit funds not be in order, no funds may be used to pay obligations which may be incurred if such contracts are executed after an adverse conclusion by the Attorney General's office.

All approvals of lines of credit shall be conditioned on compliance by the state department, agency or other entity with the aforementioned procedure, and it shall be their duty to request approval from the Attorney General's office, stating to which bond act and to which project the contract or agreement in question pertains. Failure to comply with such procedure by any such department, agency or other entity shall result in the immediate revocation of the line of credit, and all information regarding the possible expenditure of line of credit funds for other than authorized purposes shall be forwarded immediately by the Commission to the Attorney General's office and the District Attorney's office.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Voluntary Deductions from Retiree Benefits
Payroll**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No cost or savings.
- 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)
Retirees will have the opportunity to have deductions for insurance, loans, etc., made from their retirement benefit.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment.

James P. Hadley, Jr.
Director
9609#079

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

Interested persons are invited to submit written comments on this proposed rule. Such comments should be submitted no later than Thursday, October 10, 1996, 4:30 p.m., to State Bond Commission, Box 44154, Baton Rouge, LA 70804.

Sharon B. Perez
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Rule Number 15—Line of Credit**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is 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 estimated effect on competition and employment.

Sharon B. Perez
Director
9609#077

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

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

Special Bait Dealer's Permits (LAC 76:VII.329)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the regulations governing the Special Bait Dealer's Permit (LAC 76:VII.329). Authority for adoption of this rule is included in R.S. 56:497(C).

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§329. Special Bait Dealer's Permit

C. Operations

3. No more than two gallons of dead shrimp may be aboard the vessel while it is operating under the permit. All dead shrimp in excess of two gallons must be immediately returned to the water. Shrimp dying in onshore holding facilities may be sold for bait use only, in lots not to exceed 16 ounces in weight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:497(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 3:210 (April 1977), amended LR 15:867 (October 1989), LR 19:215 (February 1993), LR 22:

Interested persons may submit written comments relative to the proposed rule to: L. Brandt Savoie, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 prior to November 5, 1996.

Glynn Carver
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Special Bait Dealer's Permit**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs or savings to the state or local governmental units as a result of the proposed rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Participants in the Special Bait Dealer's Permit Program will benefit from the proposed rule change by being able to legally possess a small amount of dead shrimp and other bait species. There will be no effect on cost, workload adjustments, paperwork and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule change will have no effect on competition and employment.

Fredrick J. Prejean, Sr.
Undersecretary
9609#069

Richard W. England
Assistant to the
Legislative Fiscal Officer

Committee Reports

COMMITTEE REPORT

House Committee on Commerce September 10, 1996

Economically Disadvantaged Business Development Program (LAC 19:I.Chapters 1-13)

(Editor's Note: The full text of this proposed rule was published in the Emergency Rule Section, pages 678-684, of the August, 1996 *Louisiana Register*. The proposed rule was referenced in a Notice of Intent published on pages 725-726 of this issue.)

Pursuant to the provisions of R.S. 49:968, the House of Representatives Commerce Committee met on September 10,

1996 to review proposed Emergency Rules relative to the Economically Disadvantaged Business Development program submitted by the Department of Economic Development.

There was lengthy testimony and discussion of the proposed Emergency Rules. The committee found that a number of provisions, specifically those relating to eligibility requirements for certification, needed modification and after a motion to reject with recommendations for changes to the proposed regulations, voted unanimously to reject the proposed Emergency Rules relative to the Economically Disadvantaged Business Development program. The committee discussion centered on the fact that intent of the program is to aid economically disadvantaged businesses. It was generally determined that the proposed rules created eligibility in the program for businesses that were not economically disadvantaged. The committee suggested that the eligibility requirements of the rules should focus on those businesses that are truly economically disadvantaged and in need of assistance.

Those provisions relating to eligibility requirements which were objected to by the committee included but are not limited to the following:

§107. Eligibility Requirements for Certification

§107.A.1 This provision requires that for an applicant to qualify as an economically disadvantaged individual, the person must be a citizen or "lawful permanent resident" of the United States. The committee was uncomfortable with the idea that a person who was not a citizens of the United States could qualify for assistance under the program. However, this provision was included in the Act creating the program, therefore, legislation would be needed to change this situation.

§107.A.3 This provision provides that in order to meet the requirements for the program, each individual owner's personal net worth may not exceed \$250,000 and that the value of the individual's personal residence and investment in the applicant firm are excluded from the calculation. The committee suggested that the requirement that each individual owner's personal net worth may not exceed \$250,000 was too high and that the dollar amount should be lowered. The committee also suggested that the value of the individual's residence and investment in the business be included in the calculation of net worth.

§107.B.5 This provision provides that the amount of \$10.5 million in gross revenue will be used by the program as the qualifying monetary standard for businesses annual gross revenue. The committee suggested that this dollar amount may be too high, but suggested further study by the department concerning this determination.

§107.B.6 This provision provides that a business' net worth at the time of the application may not exceed \$750,000. The committee suggested that this dollar amount should be lowered.

§107.B.9 This provision requires managing

owners who claim economically disadvantaged status to be full time employees of the firm. The committee suggests that "full time" be further defined and specified.

§115. Duration of Certification

This provision provides for the duration of the certification. The committee suggested that more precise and specific language involving specific numerical criteria be utilized to determine the duration of a certification.

Eligibility of All Owners

The committee suggested that all individual owners of the business with 10 percent ownership or more should have to meet the requirements of eligibility as an economically disadvantaged individual. This requirement was not in the proposed rules, however, legislation to make this change in the program may be introduced.

The representative of the Department of Economic Development concurred in these substantive changes and agreed to resubmit the rule with the aforementioned changes following review by the Governor.

John D. Travis
Chairman

9609#070

COMMITTEE REPORT

House Committee on Health and Welfare August 21, 1996

Hospital Program—Outpatient Rehabilitation Services

(Editor's Note: The full text of this emergency rule may be viewed on pages 573-574 of the July, 1996 *Louisiana Register*.)

The House Committee on Health and Welfare met on August 21, 1996 and conducted a hearing on the above noted emergency rule, requiring hospital reimbursement for outpatient rehabilitation services to be comparable to reimbursement for rehabilitation clinics, issued by the Department of Health and Hospitals.

This emergency rule, sent to the House Committee on Health and Welfare on July 10, 1996, was received by the committee on July 15, 1996.

In accordance with R.S. 49:968(D)(3)(d), the House Committee on Health and Welfare determined that the emergency rule is unacceptable to the committee.

The emergency rule shall be nullified and without effect upon receipt of this report by the Department of Health and Hospitals, in accordance with R.S. 49:953(B)(4)(c).

Rodney M. Alexander
Chairman

9609#002

COMMITTEE REPORT

House Committee on Health and Welfare August 21, 1996

Rehabilitation Clinic Services—Reimbursement

(Editor's Note: The full text of this emergency rule may be viewed on pages 577-578 of the July, 1996 *Louisiana Register*.)

The House Committee on Health and Welfare met on August 21, 1996 and conducted a hearing on the above noted emergency rule, reducing by 10 percent the rate to rehabilitation clinics which are not part of a hospital but provide various outpatient rehabilitative services, issued by the Department of Health and Hospitals.

This emergency rule, sent to the House Committee on Health and Welfare on July 2, 1996, was received by the committee on July 10, 1996.

In accordance with R.S. 49:968(D)(3)(d), the House Committee on Health and Welfare determined that the emergency rule is unacceptable to the committee.

The emergency rule shall be nullified and without effect upon receipt of this report by the Department of Health and Hospitals, in accordance with R.S. 49:953(B)(4)(c).

Rodney M. Alexander
Chairman

9609#003

COMMITTEE REPORT

Senate Committee on Health and Welfare August 21, 1996

Hospital Program—Outpatient Rehabilitation Services

(Editor's Note: The full text of this emergency rule may be viewed on pages 573-574 of the July, 1996 *Louisiana Register*.)

The Senate Committee on Health and Welfare met on August 21, 1996 and conducted a hearing on the above noted emergency rule, requiring hospital reimbursement for outpatient rehabilitation services to be comparable to reimbursement for rehabilitation clinics, issued by the Department of Health and Hospitals.

This emergency rule, sent to the Senate Committee on Health and Welfare on July 10, 1996, was received by the committee on July 12, 1996.

In accordance with R.S. 49:968(D)(3)(d), the Senate Committee on Health and Welfare determined that the emergency rule is unacceptable to the committee.

The emergency rule shall be nullified and without effect upon receipt of this report by the Department of Health and Hospitals, in accordance with R.S. 49:953(B)(4)(c).

Don E Hines
Chairman

9609#004

COMMITTEE REPORT

Senate Committee on Health and Welfare August 21, 1996

Rehabilitation Clinic Services—Reimbursement

(Editor's Note: The full text of this emergency rule may be viewed on pages 577-578 of the July, 1996 *Louisiana Register*.)

The Senate Committee on Health and Welfare met on August 21, 1996 and conducted a hearing on the above noted emergency rule, reducing by 10 percent the rate to rehabilitation clinics which are not part of a hospital but provide various outpatient rehabilitative services, issued by the Department of Health and Hospitals.

This emergency rule, sent to the Senate Committee on Health and Welfare on July 2, 1996, was received by the committee on July 9, 1996.

In accordance with R.S. 49:968(D)(3)(d), the Senate Committee on Health and Welfare determined that the emergency rule is unacceptable to the committee.

The emergency rule shall be nullified and without effect upon receipt of this report by the Department of Health and Hospitals, in accordance with R.S. 49:953(B)(4)(c).

Don E. Hines
Chairman

9609#005

Potpourri

POTPOURRI

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Horticulture Commission

Retail Floristry Examination

The next retail floristry examination will be given October 21-25, 1996, at 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is September 24, 1996. No applications will be accepted after September 24, 1996.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, telephone 504/925-7772.

Any individual requesting special accommodations due to a disability should notify our office prior to September 24, 1996. Questions may be directed to 504/925-7772.

Bob Odom
Commissioner

9609#026

POTPOURRI

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

Application Submittal Deadline (LAC 33:III.507.C.1)

The Department of Environmental Quality, Office of Air Quality and Radiation Protection is announcing that all sources subject to the Louisiana Part 70 program must submit their application no later than October 12, 1996. Due to this date falling during the weekend and Monday, October 14 being Columbus Day (Observed), the Environmental Protection Agency has determined that Title V Applications received no later than October 15, 1996 will not be considered late. The State of Louisiana has no authority to grant extensions to this deadline. For more information about the Part 70 Operating Permits Program, call Keith Jordan at (504) 765-0217.

Gustave A. Von Bodungen, P.E.
Assistant Secretary

9609#098

POTPOURRI

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

General Permit Modifications

In accordance with the provisions of LAC 33:III.531, Public Notice and Affected State Notice, the Department of Environmental Quality, Air Quality Division, is seeking comments on the proposed general permit modifications. The general permit is intended to cover numerous similar sources or activities. LAC 33:III.513, General Permits, Temporary Sources, and Relocation of Portable Facilities; requires that the general permit modifications prior to issuance, shall undergo public notice and review.

A copy of the general permit modifications are available for inspection and review at the Office of Air Quality and Radiation Protection, Air Quality Division, 7290 Bluebonnet Drive, Baton Rouge, Louisiana; and the following libraries: Shreve Memorial Library, Box 21523-424 Texas St., Shreveport, LA 71120-1523; Calcasieu Public Library-Carnegie Memorial Branch, 411 Pujos Street, Lake Charles, LA 70601-4254; East Baton Rouge Parish Library, 7711 Goodwood Boulevard, Baton Rouge, LA 70806-7625; Lafayette Public Library, Box 3427, 301 W. Congress Street, Lafayette, LA 70502-3427; New Orleans Public Library, 219 Loyola Avenue, New Orleans, LA 70140-1016; Ouachita Parish Library, 1800 Stubbs Avenue, Monroe, LA 71201-5787; and Rapides Parish Library, 411 Washington Street,

Alexandria, LA 71301-8338.

For 30 days from the date of publication of this notice, the public is provided the opportunity to comment on these proposals. Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of commentator's recommendations. Written comments on this project may be submitted to the Administrator, Air Quality Division, Box 82135, Baton Rouge, LA 70884-2135. It is requested that all correspondence specify LAC 33:III.513—General Permit Modifications. All comments will be considered prior to the final decisions on the general permit modifications.

Gustave Von Bodungen, P.E.
Assistant Secretary

9609#096

POTPOURRI

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

Post 1996 Rate of Progress (ROP) and Attainment Demonstration (SIP Revision)

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 and Attainment Demonstration SIP Revision, including adjustments to the 1990 Base Year Inventory and the 15 percent ROP SIP. These revisions will reflect changes resulting from the inclusion of additional point source inventory and creditable reductions and to changes in mobile source programs/emission factors used to demonstrate rate of progress and attainment.

A public hearing will be held at 1:30 p.m. on Friday, October 25, 1996, in Room 326, Maynard Ketcham Building, 7290 Bluebonnet, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposal. Should individuals with a disability need an accommodation in order to participate, please contact Pat Salvaggio at (504) 765-0915 or at the address listed below.

Written comments concerning the SIP revisions must be received no later than 4:30 p.m., November 1, 1996. Submit written comments to Pat Salvaggio at the following address:

Department of Environmental Quality, Air Quality Division, Box 82135, Baton Rouge, LA, 70884-2135; or FAX to (504) 765-0921.

A copy of the SIP revision may be viewed at the Air Quality Division from 8 a.m. to 4:30 p.m., Monday through Friday, at the Department of Environmental Quality, Headquarters, 7290 Bluebonnet, Second Floor, Baton Rouge, LA; or at the Capital Regional Office, 11720 Airline Highway, Baton Rouge, LA. A copy of the SIP revision is also available for viewing at the

State Library of Louisiana, 760 North Third Street, Baton Rouge, LA; and at the Louisiana State University, Hill Memorial Library, Baton Rouge, LA.

Gus Von Bodungen
Assistant Secretary

9609#097

POTPOURRI

Department of Environmental Quality Office of Water Resources

NPDES Authorization Received

On August 27, 1996, the Louisiana Department of Environmental Quality was granted authority to administer the National Pollutant Discharge Elimination System (NPDES) permit process. This assumption of authority will allow LDEQ to issue surface water permits previously issued by the Environmental Protection Agency. The new Louisiana Pollutant Discharge Elimination System permits are being issued in accordance with Chapter 23 of LAC 33:IX, promulgated on September 20, 1995.

Linda Korn Levy
Assistant Secretary

9609#099

POTPOURRI

Office of the Governor Oil Spill Coordinator's Office

Oil Spill Contingency Plan

In accordance with R.S. 30:2459, the State Oil Spill Contingency Plan (SCP) defines the way the state of Louisiana will respond to actual or threatened unauthorized discharges of oil and direct clean up of pollution from such discharges. In 1995, the SCP was developed in cooperation with local, state, and federal agencies who regulate oil spill response, clean up, and restoration activities.

Recommendations for changes to the SCP are welcome at any time but should be received on or before June 1, 1997 for possible incorporation in next year's revision. Comments to the SCP should be sent to: Roland J. Guidry, Oil Spill Coordinator, Oil Spill Coordinator's Office, Office of the Governor, Box 94095, Baton Rouge, LA 70804.

Changes and additions to the State Oil Spill Contingency Plan for 1996 are in *italics*.

* * *

CHAPTER 2 (Page 2.2)

B. Statewide Response System and Policies-LOSCO

1. The Louisiana Oil Spill Coordinator

Under 30:2462 the Coordinator, in consultation with the Department of Environmental Quality, is authorized to administer the OSPRA and direct all state discharge response and cleanup *operations* resulting from unauthorized or *threatened* discharges of oil, *affecting or potentially affecting the land, coastal waters, or any other waters of Louisiana*, as directed by the Governor or upon declaration of emergency as declared by the Governor.

The Department of Environmental Quality, under the direction and control of the Coordinator, is lead technical agency of the state for response to actual or threatened unauthorized discharges of oil and for cleanup of pollution from unauthorized discharges of oil.

* * *

CHAPTER 2 (Page 2.3)

4. Louisiana Department of Environmental Quality

The Louisiana Department of Environmental Quality (LDEQ) is the primary agency in the State concerned with environmental policies and regulations as set forth in the Louisiana Revised Statutes 30:2001 et seq. The LDEQ responds to all reported unauthorized discharges, emissions or other releases to the water, air and soil with the intent of providing protection of these natural resources to maintain a healthful environment for the citizens of the State. Specific response activities of the LDEQ relative to the Oil Spill Prevention and Response Act of 1991 (OSPRA '91) may vary according to the size, extent and composition of a spill, and the degree of involvement of a responsible party, and local, state and federal agencies. LDEQ has trained all response personnel to the 40 hour Hazardous Waste Operations and Management level for activities relative to oil and hazardous material releases. In addition to spill response duties, LDEQ personnel review industry spill prevention and control plans, assist in oil and hazardous material spill drills, and inspect permitted facilities for compliance with applicable rules and regulations pursuant to the Louisiana Environmental Quality Act. The following are LDEQ duties relative to Louisiana's State Oil Spill Contingency Plan:

(a) Maintains a notifications system for receipt of information on anticipated and actual unauthorized discharges.

(b) Activates spill response procedures as necessary, including secondary notifications.

(c) Acts as state on-scene coordinator for oil spills within Louisiana Coastal Waters in lieu of the Louisiana Oil Spill Coordinator's presence.

(d) Determines the nature, extent and location of the spill.

(e) Seeks to locate the source and cause of the spill and to identify the responsible party.

(f) Tracks and predicts spill movements.

(g) Evaluates the environmental implications of the spill and identifies priority areas for protection and cleanup in consultation with other State, Federal and local agencies.

(h) Provides technical assistance to local emergency responders and advises on necessary protective actions.

(i) Provides advice and regulatory oversight on a responsible party's preferred method of containment, abatement and cleanup, including temporary and ultimate

storage, handling, transport and disposal methods.

(j) Provides logistical support to state, local and federal agencies to the extent that resources allow.

(k) Advises industry to ensure that cleanup is conducted appropriately.

(l) Collects and analyzes air, water, soil, vegetation and/or tissue samples for assessing environmental damage and pursuing enforcement actions.

(m) Monitors adequacy of response.

(n) Documents aspects of the incident and subsequent response activities of involved parties.

(o) Acts as a State Natural Resource Trustee for the protection of the designated resources of surface waters, ground waters, air and soil within the jurisdictional boundaries of Louisiana.

(p) Provides liaison with federal, state and local agencies, adjacent countries, the private sector and the public as appropriate.

(q) Participates in the formulations of contingency plans for the preparedness of a given local, state or federal agency or regulated entity to abate impacts due to a spill event.

(r) Participates in spill drills for the purpose of assisting in the evaluation of adequacy of a given contingency plan.

* * *

CHAPTER 2 (Page 2.7)

6. The Department of Natural Resources

Office of Coastal Restoration and Management

The Louisiana Department of Natural Resources/ Office of Coastal Restoration and Management (LDNR/OCR&M) is the agency responsible for the implementation of the Coastal Vegetated Wetlands Conservation and Restoration Plan (R.S. 49:213.1). The OCR&M is mandated to develop and implement policies, plans, and programs to encourage multiple uses of the Coastal Zone and to achieve a proper balance between development and conservation, restoration, creation, and nourishment of renewable coastal resources (R.S. 49:213.1). The LDNR/OCR&M has the primary authority over those activities occurring on, and uses of, lands and water within the boundary set forth under La. R.S. 49:213.1 et seq., which have direct and significant impact, as defined in R.S. 49:214.24, on coastal waters, R.S. 49:214.25.

The LDNR/OCR&M also has the authority to review, for consistency, with the Louisiana Coastal Resources Program (LCRP): those direct and indirect federal actions; and those actions licensed and/or permitted by federal agencies, both outside and within the coastal zone, which may significantly affect coastal resources/waters within the coastal zone (R.S. 49:214.32).

The LDNR/OCR&M incorporated Act 7, the Louisiana Oil Spill Prevention and Response Act, into the LCRP effective February 1996. For the purposes of federal consistency, the following are the enforceable policies incorporated into the program: R.S. 30:2452-2454, §2457, §§2459-2461, §§2463-2466, §§2469-2476, §§2478-2480, §§2485-2486, and §§2488-2489.

The Coastal Management Division (CMD) of the OCR&M is mandated to protect, develop, and where feasible,

restore or enhance the resources of the state's Coastal Zone; to develop and implement a coastal resources management program which is based on consideration of our resources, the environment, the needs of the people of the state, the nation, and of state and local government; and to enhance opportunities for the use and enjoyment of the recreational values of the Coastal Zone (R.S. 49:214.22).

The Coastal Restoration Division (CRD) of the OCR&M is mandated to establish and monitor projects within the coastal zone boundary that conserve, enhance, restore, and create coastal vegetated wetlands in accordance with the Coastal Vegetated Wetlands Conservation and Restoration Plan (R.S. 49: 214.4). The CRD is responsible for engineering and monitoring programs consistent with mandates associated with Act 6 of the Second Extraordinary Session of 1989 Louisiana Legislature.

The Louisiana Coastal Zone is defined as "coastal waters and adjacent shorelands within the boundaries of the coastal zone established in R.S. 49:214.24, which are strongly influenced by each other, and in proximity to the shorelines, and uses of which have a direct and significant impact on coastal waters" (R.S. 214.23(4); see attached map. Coastal waters "shall mean bays, lakes, inlets, estuaries, rivers, bayous, and other bodies of water within the boundaries of the coastal zone which have measurable seawater content (under normal weather conditions over a period of years" [R.S. 214.23(3)]. When used in the regulations of the Louisiana Coastal Resources Program (LCRP), wetlands shall be "open water areas or areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions" (Louisiana Coastal Resources Program Final Environmental Impact Statement, 1980 p. c6-3).

The Office of Coastal Restoration and Management:

(a) Is authorized to be, in cooperation with the Louisiana Oil Spill Coordinator (LOSCO), the lead agency *within the Department of Natural Resources* in recommending provisions of the State Oil Spill Contingency Plan providing for protection and rehabilitation of appropriate resources under its jurisdiction (R.S. 30:2459.A);

(b) Is represented by the Secretary of the Department of Natural Resources or his designee on the Interagency Council established by the Oil Spill Prevention and Response Act (R.S. 30:2458.A.4);

(c) Cooperates in the establishment of procedures for assessment of natural resource damages and plans for mitigation of damage to and restoration, protection, rehabilitation, or replacement of damaged natural resources. LDNR/OCR&M will be the lead advisory agency with respect to any procedures for the assessment of damages to and restoration, protection, rehabilitation or replacement of vegetated wetlands within the coastal zone. (R.S. 30:2460.A.14);

(d) Assists other responding agencies by providing expertise, knowledge and information about critical areas, resources, and best alternative cleanup methods (R.S. 49:214 et seq.);

(e) Provides, when to do so would not impair other

functions of the office, logistical assistance of equipment and personnel to support the response, damage assessment and restoration operation and ensure the protection of resources;

(f) Issues and enforces permits in the coastal zone in accordance with established guidelines (R.S. 49:214.27) (LAC 43:I.701-723) (1989) in connection with:

- (1) levee construction (§703);
- (2) linear facilities (§705);
- (3) dredged spoil deposition (§707);
- (4) shoreline modification (§709);
- (5) surface alterations (§711);
- (6) hydrologic and sediment transport modifications (§713);
- (7) disposal of wastes (§715);
- (8) alteration of waters draining into coastal waters (§717);

(9) oil, gas and other mineral activities (§719);

(10) avoiding adverse impacts to the coastal zone for any coastal activity (§701.G);

(g) *Requires that effective environmental protection and emergency or contingency plans shall be developed and complied with for all mineral operations (LAC 43:I.719.K).*

(h) *Requires that the use of dispersants, emulsifiers and other similar chemical agents on oil spills be prohibited without the prior approval of the Coast Guard or Environmental Protection Agency on-Scene Coordinator, in accordance with the National Oil and Hazardous Substances Pollution Contingency Plan (LAC 43:I.719.L).*

(i) *Provides consistency reviews for any direct federal actions or permitted, licensed, or funded federal actions carried out by other persons pursuant to the consistency provisions of the LCRP and the federal Coastal Zone Management Act legislation.*

(j) Ensures that any governmental body undertaking, conducting, or supporting activities directly affecting the Louisiana Coastal Zone shall make certain that such activities shall be consistent to the maximum extent practicable with the Louisiana Coastal Management Program and any affected approved local coastal management program having geographical jurisdiction over the action (R.S. 49:214.32);

(k) Notifies the appropriate representative of any parish that has an authorized Local Program in the event of an emergency brought about by natural or man-made causes that would result in hazard to life, loss of property, or damage to the environment if immediate action were not taken;

(l) Issues emergency authorization for uses necessary to correct emergency situations brought about by natural or man-made causes that would result in hazard to life, loss of property, or damage to the environment if immediate action were not taken (LAC 43:I.723.B.3);

(m) Receives all monies appropriated from the Wetlands Conservation and Restoration Fund and shall implement all programs and projects in the coastal vegetated wetlands conservation and restoration plan approved by the legislature (R.S. 49:214.4.B.1);

(n) Develops procedures to evaluate new and improved coastal restoration and preservation technologies (R.S. 49:214.4.B.3);

(o) Administers and manages project planning, design, construction, and monitoring [R.S. 49:213.7.E.1(c)];

(p) Operates and maintains structural projects [R.S. 49:213.7.E.1(d)].

Roland J. Guidry
Oil Spill Coordinator

9609#034

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, September 14, 1996 at Delgado Community College, 615 City Park Avenue, New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, telephone (504) 838-5109.

Dawn Scardino
Executive Director

9609#027

POTPOURRI

Department of Health and Hospitals Office of Public Health

WIC State Plan 1996-97

In accordance with public laws 99-500 and 99-591, the Louisiana Special Supplemental Nutrition Program for Women, Infants and Children (WIC) is soliciting comments from the general public on the WIC program's State Plan for 1996-97. The plan describes in detail the goals and the planned activities of the WIC program for the next year.

Interested persons may find copies of the State Plan at the Central Nutrition/WIC Office: Department of Health and Hospitals, Office of Public Health, Nutrition Section, Room 406, Box 60630, New Orleans, LA 70160, Attn: State Plan or they may apply directly to the Nutrition/WIC Office for copies of the plan at \$.25 per page.

Interested individuals should submit their requests for copies or their comments on the Plan to the address listed above. Additional information may be gathered by contacting Henry Klimek at (504) 568-5065.

Pamela P. McCandless, M.P.H.
Administrator

9609#100

POTPOURRI

Department of Social Services Office of Community Services

Residential Services to Foster Children

The Office of Community Services (OCS) in the Department of Social Services announces that it will continue to maintain the procedure which became effective on May 1, 1995 for accepting proposals from prospective providers of residential services to foster children. The procedure was originally published in a Potpourri announcement in the *Louisiana Register*, Volume 21, Number 3, on March 20, 1995. Individuals and/or agencies that contact the Office of Community Services requesting information on how their current or planned residential program can be funded by OCS, or submitting proposals to provide residential services to foster children, will be placed on a list which will include the name, address and phone number of the inquirer/proposer.

All persons and agencies on the list will be notified at the time that the office seeks to develop a specific residential

program in a specific geographical area. The prospective residential providers will be mailed a full description of the type and scope of program sought and the geographical area to be served along with an invitation to prepare and submit to OCS a proposal for that service. The notification will include a list of other materials such as OCS residential agreements and rate setting procedures that prospective providers may request to be mailed to them or that can be obtained at the OCS state office to assist proposers in preparation of their proposals. The name and phone number of an OCS representative will be given for prospective providers to contact for more information.

A committee of professionals working in the foster care and residential program areas will evaluate the proposals and select the one(s) most fitting the needs of the foster care program. It is expected that this solicitation process will result in an efficient and equitable manner of handling the many and varied requests the office receives from citizens who wish to provide residential services to foster children.

Madlyn B. Bagneris
Secretary

9609#080

CUMULATIVE INDEX
(Volume 22, Number 9)

Name change, 241N
Restructuring, 241N

1996		Issue
Pages		
1 — 75	.....	January
76 — 158	.....	February
159 — 264	.....	March
265 — 322	.....	April
323 — 410	.....	May
411 — 526	.....	June
527 — 676	.....	July
677 — 772	.....	August
773 — 915	.....	September

CR—Committee Report	EO—Executive Order
ER—Emergency Rule	L—Legislation
N—Notice of Intent	P—Potpourri
PPM—Policy and Procedure Memorandum	R—Rule

ADMINISTRATIVE CODE UPDATE

Cumulative

January 1995 - December 1995, 64
January 1996 - March 1996, 313
January 1996 - June 1996, 667

AGRICULTURE AND FORESTRY

Agricultural and Environmental Sciences

Landscape architect exam, 765P
Pesticide, 291N, 541ER
Plant quarantine, 314P
Retail floristry exam, 153P, 405P, 765P, 905P
Seed certification, 717N

Agricultural Commodities Commission

Wheat, 414ER

Forestry, Office of

Timber stumpage, 1ER, 121N, 325ER, 581R
Seedling, 586N, 678ER

Livestock Sanitary Board

Animal disease, 414ER, 537ER, 782ER
Brucellosis, 462N, 718N
Contagious disease, 718N
Rendering plant, 718N

Structural Pest Control Commission

Bait/baiting systems, 77ER
Pest Management, 542ER

CIVIL SERVICE

Civil Service Commission

Compensation, 377N
Leave, 294N
Prohibited activities, 121N

Ethics for Elected Officials, Board of

Lobbyist registration/reporting, 542ER, 720N
Small municipalities, 376N, 804R

CULTURE, RECREATION AND TOURISM

Secretary, Office of the

Byways, 37N, 723N

State Library, Office of

Certification, 241N
Library construction/technology, 12R

ECONOMIC DEVELOPMENT

Boxing and Wrestling Commission

Amend/repeal rules, 377N, 697R

Certified Shorthand Reporters, Board of Examiners of

Disclosure, 445R
Transcript format, 862N

Commerce and Industry, Office of

Enterprise Zone Program, 122N, 445R
Quality jobs, 586N

Contractors, Licensing Board for

Residential construction, 94R

Division of Economically Disadvantaged

Business development, 678ER, 725N

Economic Development Corporation

Award Program, 783ER, 863N
Linked deposit, 724N
Small business, 415ER, 417ER, 787ER, 864N
Workforce Development/Training, 791ER, 865N

Financial Institutions, Office of

Deed escrow, 187R

Racing Commission

Bleeder medication, 12R
Entry after excused, 13R
Field less than eight, 13R
First aid, 325ER, 378N, 804R
Superfecta, 326ER, 379N, 805R
Timing of entering, 13R
Video Poker purse, 13R

Real Estate Commission

Adjudicatory proceeding, 95R
Compensation, 96R
Insufficient funds, 161ER, 190R
License/registration/certificate, 96R
Symbols, tradenames, trademark, 96R

EDUCATION

Elementary and Secondary Education, Board of

Bulletin 741
Adult education, 97R
Instructional staff, 130N, 338R
Religion, 130N, 338R
School administrators, 129N, 337R, 379N, 697R
Bulletin 746
Business/office education, 463N, 806R
Child welfare/attendance, 98R
Foreign language, 38N, 277R
Speech/language/hearing, 464N, 806R
Vocational-technical personnel, 466N, 808R
Bulletin 1191
School transportation, 467N, 809R
Bulletin 1196
Breakfast, 242N, 452R
Food service manager, 242N, 452R
Bulletin 1452
Dropout, 726N
Bulletin 1706
Discipline, 2ER, 190R
Exceptional children, 78ER, 421ER
Bulletin 1868
Personnel Manual, 2ER, 327ER
Bulletin 1882
Administrative Leadership Academy, 380N, 698R

Bulletin 1943

Teacher assessment, 38N, 98R, 277R
Dropout, 295N
Medication policy, 39N, 277R
Special Education Advisory Council, 99R
Teacher certification, 726N
Technical college, 130N, 453R, 809R

Student Financial Assistance Commission

Bylaws, 468N, 809R, 866N
Federal Family Educational Loan Program (FFELP), 190R
LEO credit, 593N
Scholarship and Grant Manual, 40N, 338R

ENVIRONMENTAL QUALITY

Air Quality and Radiation Protection, Office of

AQ126 Chemical accident, 161ER, 545ER, 593N, 595N, 596N
AQ128 Quality assurance, 14R
AQ131 Organic compound emission, 14R
AQ132 Petroleum refinery, 16R
AQ133 Ambient air standards, 41N, 278R
AQ134 Point of custody transfer, 44N, 341R
AQ135 Reportable quantity of VOCs, 45N, 341R
AQ136 Miscellaneous amendments, 42N, 338R
AQ137 VOC Storage, 131N, 453R
AQ138 Fugitive emission, 599N
AQ139 Asbestos in Schools/State Buildings, 296N, 698R
AQ141 Perchloroethylene removal, 301N, 702R
AQ142 Crematories, 598N
AQ144 NESHAP Source Categories, 870N
AQ145 Incorporation by reference, 727N
NE015 Shielding exemptions NRC revisions, 380N
Annual report, 668P
Application submittal, 906P
Fugitive emission, 405P, 669P
Inspection and Maintenance Program (I/M), 259P
NESHAP, 669P
NSPS, 669P
Ozone attainment, 153P
Permit procedure/modification, 66P, 906P
Rate of progress, 906P
Regulatory agenda, 316P
State Implementation Plan (SIP), 259P, 906P
Title V Application, 316P

Legal Affairs and Enforcement, Office of

Emergency response, 153P

Management and Finance, Office of

OS20 Fee payment, 17R

Secretary, Office of the

HW051 Land disposal, 327ER, 794ER
OS018 Emergency response, 381N
OS14 Confidentiality, 342R
OS20 Fee payment, 17R

Solid and Hazardous Waste, Office of

HW45 Foreign hazardous waste, 20R, 100R
HW48 Land ban, 22R
HW050 RCRA IV federal, 618N, 830R
HW051 Land Disposal, 871N
HW053 EPA, 601N, 813R
HW056 Waste minimization, 629N
SW018 Ditches/air curtains, 278R
SW019 Waste tire transporter, 3ER
SW020 Waste tire, 162ER
SW021 Waste tire, 422ER, 728N, 872N

Water Resources, Office of

NPDES, 907P
WPO19 Ouachita River, 731N

EXECUTIVE ORDERS

EWE 95-36 West Baton Rouge Parish Bond Allocation, 1
EWE 96-1 TransAmerica Refining Corporation Bond Allocation, 76
MJF 96-1 Affirmative Action, 76
MJF 96-2 Interagency Action Council for the Homeless, 159
MJF 96-3 Affirmative Action, 160
MJF 96-4 Inmate Labor, 161
MJF 96-5 Assistant District Attorneys Advisory and Review Commission, 265
MJF 96-6 Safe/Drug Free Schools/Communities Advisory Council, 265
MJF 96-7 Small Business Bonding Assistance, 266
MJF 96-8 Louisiana LEARN Commission, 268
MJF 96-9 Governor's DWI/Vehicular Homicide Task Force, 323
MJF 96-10 Oklahoma City Bombing Anniversary, 323
MJF 96-11 Housing Finance Agency Bond Allocation, 324
MJF 96-12 Governor's Military Advisory Commission, 411
MJF 96-13 Flying the POW/MIA Flag Over the State Capitol, 411
MJF 96-14 Procurement of Small Purchases, 412
MJF 96-15 Automobile Insurance Rates, 527
MJF 96-16 Flying Flags at Half-staff for Americans Killed at Dhahran, Saudi Arabia, 528
MJF 96-17 Medically Needy Program, 528
MJF 96-18 Inter-agency Transportation Coordination Committee, 529
MJF 96-19 Office of Business Advocacy, 530
MJF 96-20 Substance Abuse Educational Program for State Employees, 530
MJF 96-21 Gaming Control Board's Salary and Per Diem, 677
MJF 96-22 Technology Transfer Programs, 677
MJF 96-23 1996 Corn and Grain Special Permits, 773
MJF 96-24 Office of Contractual Review Public Funds Expenditures, 773
MJF 96-25 Bond Ceiling Allocation Method/Recordkeeping, 774
MJF 96-26 Public Facilities Authority Bond Allocation, 776
MJF 96-27 Emergency Operations Center, 777
MJF 96-28 School-to-Work Council, 780
MJF 96-29 Environmental Protection and Preservation Task Force, 781

FIREFIGHTERS' PENSION AND RELIEF FUND

City of New Orleans and Vicinity
Cost of living adjustment, 100R
Deferred Retirement Option Plan, 703R
Direct rollover, 243N, 708R

GAMING (see Public Safety)

Louisiana Lottery Corporation
On-Line Lottery, 732N

GOVERNOR'S OFFICE

Administration, Division of
Commissioner, Office of
Travel—PPM49, 302N, 423ER, 531PPM, 678PPM

Facility Planning and Control, Office of
 Controversy resolution, 345R
 Selection procedure, 133N, 345R
 Property Assistance Agency
 Fleet management, 736N
 State Purchasing, Office of
 Procurement Code, 280R
 Uniform Payroll, Office of
 Payroll deduction, 22R
Community Development, Office of
 Consolidated Annual Action Plan, 153P
Crime Victims Reparations Board
 Victim compensation, 269ER, 302N, 709R
Oil Spill Coordinator's Office
 Contingency plan, 406P, 907P
Rural Development, Office of
 Project/Funding, 795ER

HEALTH AND HOSPITALS

Chiropractic Examiners, Board of
 Conduct/ethics, 191R
 Financial interest, 191R
 Illegal payment, 191R
 Peer review, 191R
Citizens with Developmental Disabilities, Office for
 Consumer grievance, 134N
Dentistry, Board of
 Advertising/soliciting, 22R, 23R, 738N
 Continuing education, 24R, 738N
 Dental assistant, 22R, 739N
 Dental hygienist, 22R, 740N
 Hearing, 24R
 License, 22R, 23R, 23R, 740N
 Parental consent, 23R
 Parenteral drug, 741N
 Prescription, 738N
 Restricted license, 23R
Electrolysis Examiners, Board of
 Electrologist technician, 46N
Embalmers and Funeral Directors, Board of
 Exam, 154P, 316P, 909P
**Licensed Professional Vocational Rehabilitation
 Counselors, Board of**
 License, 305N, 582R
Medical Examiners, Board of
 Clinical laboratory, 195R
 License, 766P
 Physician assistant, 200R
 Physician/surgeon, 207R, 280R
 Registered nurse, 244N
Nursing, Board of
 Annual meeting, 103R
 Domicile, 103R
 Fee, 426ER, 472N
 Registered nurse, 244N, 280R
 Respiratory therapy, 745N
Pharmacy, Board of
 Pharmacy technician, 46N
 Practice, 50N
Physical Therapy Examiners, Board of
 Licensure, 284R
Professional Counselors, Board of Examiners of
 Conduct, 631N
 General provisions, 101R
Psychologists, Board of Examiners of
 Assistant, 742N

Board address, 630N
 Continuing education, 742N
Public Health, Office of
 Abortion, 4ER, 25R
 Bacteriological laboratory, 247N, 306N, 455R
 Children's special health, 140N, 362R
 Community based/rural health service, 472N, 840R
 Human subjects, 147N, 368R
 Office of Research Integrity (establishes), 140N, 362R
 Sanitary Code
 Bottled water, 684ER, 750N
 Diseases, 876N
 Lead poisoning, 384N, 711R
 Mechanical wastewater, 307N, 582R, 641N
 Molluscan shell, 328ER, 385N
 Nutria, 26R
 Seafood Inspection, 556ER, 875N
 Sewage Disposal, 843R
 Tattooing, 877N
 Sewage, 684ER, 749N
 WIC, 909P
Secretary, Office of the
 Ambulance, 285R
 Annual service agreement, 214R
 Case management, 79ER, 162ER, 170ER, 427ER,
 556ER, 797ER, 878N, 879N
 Chiropractic care, 216R
 Community care, 569ER, 796ER
 Dependent children, 426ER
 Direct reimbursement, 429ER
 Disproportionate share, 163ER, 430ER
 Denture, 104R
 Developmentally disabled, 433ER
 Early Periodic Screening Diagnosis and Treatment
 (EPSTD), 104R, 571ER, 571ER, 880N
 Emergency medical transportation, 105R, 105R
 Ephedrine, 215R
 Experimental procedure, 476N, 844R
 Facility need review
 Beds, 387N
 Nursing facility, 387N
 Federally qualified health center, 106R, 572ER, 881N
 Home and community based services, 81ER
 Home health agency, 641N
 Home health services
 Definitions, 572ER, 685ER
 Homebound criteria, 218R
 Reimbursement, 218R
 Hospital program
 Inpatient, 106R, 219R
 Median, 32R
 Out-of-state services, 33R
 Outpatient, 33R, 573ER, 573ER, 796ER, 883N
 Reimbursement inflation, 33R
 Hospital reimbursement, 574ER, 686ER, 797ER
 Informed consent
 Female genital treatment, 29R
 Hemodialysis, 30R
 Maternity, 456R
 Urology, 31R, 285R, 712R
 Institutional services, 272ER
 Intermediate care facility, 5ER, 369R, 766P
 Investigational procedure, 476N, 844R
 KIDMED, 106R
 Laboratory, 5ER, 107R, 219R
 Mammoplasty, 308N, 713R

Maternal and Child Health Block Grant, 387N, 712R
Medical equipment, 217R, 570ER, 879N
Medicaid, 50N, 370R, 370R, 388N, 441ER, 574ER, 583R
Medically needy, 434ER, 578ER, 882N
Mental health, 107R, 166ER, 456R
Mentally retarded, 433ER
Neonatology, 8ER, 248N, 583R
Nursing facility, 7ER, 34R, 34R, 271ER, 309N, 330ER, 369R, 435ER, 438ER, 669P, 766P
Nursing home, 477N, 645N
Pharmacy program
 Benefits, 273ER, 686ER
 Copayment, 107R
 Drug utilization, 273ER, 686ER
 Medicare B, 274ER
 Overhead cost, 108R, 688ER, 884N
 Point of sale, 273ER, 686ER
 Reimbursement, 249N, 583R
Private ICF/MR facility, 184ER, 249N
Professional service program, 108R, 330ER, 575ER, 575ER, 576ER, 577ER, 885N
Rehabilitation clinic, 109R, 577ER, 798ER
Rural health, 109R
Substance abuse, 109R
Transplant, 185ER, 250N, 584R
Tuberculosis, 110R
Vaccine, 8ER, 259P, 334ER, 502N, 799ER, 844R
X-ray, 5ER, 107R, 219R

Speech-Language Pathology and Audiology, Board of Examiners for
Rules repeal/repromulgation, 346R

INSURANCE

Insurance, Commissioner of
Regulation 32 Benefits coordination, 751N
Regulation 54 Automobile insurance, 68P
Regulation 55 Life insurance, 645N
Regulation 58 Viatical settlements, 148N, 404CR, 670P
Regulation 59 Health insurance data, 251N
Regulation 60 Life insurance, 651N, 886N
Regulation 61 Actuarial Opinion Statement, 891N
Rule/regulation repeal, 892N

LABOR

Employment Security, Office of
Electronic transfer, 9ER, 185ER, 254N, 520CR
Workers' Compensation, Office of
Assessment, 34R
Average weekly wage, 766P
Benefits limits, 767P
Compliance, 220R, 285R, 503N
Filing, 34R
Forms, 221R, 503N
Fraud, 222R, 504N
Hearing officer, 799ER, 893N

LOUISIANA LEGISLATURE

House of Representatives
Committee on Commerce
 Economically disadvantaged business, 903CR
Committee on Health and Welfare
 Hospital Program outpatient rehabilitation, 904CR
 Rehabilitation clinic reimbursement, 905CR

Senate

Committee on Health and Welfare
 Hospital Program outpatient rehabilitation, 905CR
 Rehabilitation clinic reimbursement, 905CR
Office of the President
 Professional/occupational law/rules study (SR24), 520L

NATURAL RESOURCES

Capital Area Ground Water Conservation Commission
Water well permits, 656N
Conservation, Office of
Commercial facility application, 317P
Oilfield waste, 406P
Orphaned oilfield, 68P, 155P, 317P, 521P, 670P

PUBLIC SAFETY AND CORRECTIONS

Gaming Control Board
Chairman, 579ER, 759N
Civil penalty, 688ER, 758N
Conduct, 688ER, 758N
Definitions, 579ER, 688ER, 758N, 759N
Ethics, 688ER, 758N
License, 579ER, 759N, 800ER, 894N
Hearing, 579ER, 759N, 800ER, 894N
Significant service, 688ER, 758N

Liquefied Petroleum Gas Commission
Fees, 801ER

Motor Vehicles, Office of
Driving school, 286R

Pardons, Board of
Clemency, 81ER

Private Investigator Examiners, Board of
Apprentice, 255N, 459R
Continuing education, 150N, 371R

Private Security Examiners, Board of
Board, 657N
Definitions, 657N
Investigations, 657N
Organization, 657N
Training, 657N

State Police, Office of
Bingo/keno/raffle, 110R
Handgun, 505N, 844R
Explosive, 760N

REVENUE AND TAXATION

Alcoholic Beverage Control, Office of
Alcoholic beverage sampling, 116R

Excise Taxes Division
Dyed special fuel, 256N, 460R

Income Tax Division
Estate transfer tax, 760N
Inheritance tax, 760N
Protest remittance, 895N
Recovery, 895N

Sales Tax Division
Alternate filing period, 512N, 852R
Motion picture rental, 514N, 853R
Nonprofit organization, 515N, 854R
Rental exemption, 516N, 855R

Secretary, Office of the
Electronic filing, 35R

Severance Tax Division
Natural gas, 317N

Tax Commission

Ad valorem tax, 117R
Timber stumpage, 1ER, 121N, 325ER, 581R

SOCIAL SERVICES

Community Services, Office of

Foster children, 910P
Homeless, 260P
Social Services Block Grant (SSBG), 318P
Weatherization, 318P

Family Support, Office of

Aid to Families with Dependent Children (AFDC), 517N
Child support, 118R, 223R
Family independence, 896N
Food Stamps, 52N, 275ER, 286R, 311N, 391N, 517N, 584R, 691ER, 761N
Individual/family grant, 897N
JOBS Program, 762N
Minor parents, 898N
Parenting education, 899N
Paternity, 10ER, 117R, 118R
Uniform Interstate Family Support Act, 224R

Rehabilitation Services, Office of

Policy manual, 660N, 691ER
Randolph-Sheppard Trust, 119R

Secretary, Office of

Child Care and Development Block Grant, 406P

TRANSPORTATION OF DEVELOPMENT

Highways/Engineering

Rural water district, 228R
Signs, 224R, 228R

Professional Engineers and Land Surveyors, Board of

Registration for

Property boundary, 392N, 713R
Seals, 54N, 287R
Temporary permit, 53N, 286R

Public Works, Office of

Dam safety, 763N

Sabine River Compact Administration

Spring meeting, 406P

Weights, Measures, and Standards

Legal limitation, 120R
Violation review committee, 151N, 372R

TREASURY

Bond Commission

Line of credit, 10ER, 693ER, 902N
Reimbursement contract, 442ER, 661N

Housing Finance Agency

HOME funds, 335ER
HOME rental housing, 59N, 311N, 717R

State Employees Group Benefits Program, Board of Trustees of the

Organ transplant, 692ER, 763N
Prescription, 54N, 287R
Private nursing, 692ER, 763N
Well child care, 692ER, 763N

State Employees' Retirement System, Board of Trustees of the

Rules codification/amendment, 57N, 373R

Teachers' Retirement System, Board of Trustees of the

Deductions, 901N
Reports via tape/diskette, 900N
Retiree's return to work, 58N, 290R

WILDLIFE AND FISHERIES

Fisheries, Office of

Commercial fisherman, 60N, 275ER, 373R
Dealer receipt, 60N, 275ER, 373R
Flounder, 276ER, 336ER, 518N, 693ER, 693ER, 802ER
King mackerel, 802ER
Mussel, 374R, 444ER
Net buy-back, 231R
Nets, 231R
Oyster, 120R
Pompano, 395N, 859R

Wildlife and Fisheries Commission

Alligator, 580ER
Bait dealer, 903N
Bass, 61N, 376R
Black Drum, 83ER, 233R
Commercial fisherman, 85ER, 235R
Flounder, 83ER, 233R, 337ER, 519N, 696ER
Fur harvest, 803ER
Hunting season, 258N, 585R, 663N, 803ER
Migratory game bird, 695ER
Mullet, 86ER, 236R
Mussel, 62N, 319N
Net buy-back, 88ER
Oyster, 90ER, 337ER, 696ER, 764N
Physically-challenged hunter, 397N, 856R
Pompano strike net, 83ER
Red Snapper, 11ER, 186ER, 276ER, 445ER
Reef fish, 401N, 860R
Rod and reel, 90ER, 237R
Seining permit, 666N
Sheepshead, 83ER, 233R
Shrimp, 336ER, 580ER, 581ER, 695ER, 696ER
Spotted Seatrout, 91ER, 238R
Timken wildlife management, 402N, 860R
Traversing, 240R
Waddill Wildlife Refuge, 403N, 861R

1. The first part of the document discusses the importance of maintaining accurate records of all transactions.

2. It is essential to ensure that all data is entered correctly and consistently to avoid any discrepancies.

3. Regular audits should be conducted to verify the accuracy of the information and to identify any potential errors.

4. The second section outlines the various methods used to collect and analyze data, including surveys and interviews.

5. These methods are designed to gather comprehensive information about the subject matter being studied.

6. The results of these analyses are then used to draw conclusions and make informed decisions.

7. The third part of the document focuses on the ethical considerations that must be taken into account.

8. It is crucial to ensure that all data collection and analysis is conducted in a fair and unbiased manner.

9. This involves obtaining informed consent from participants and protecting their privacy throughout the process.

10. Finally, the document concludes by emphasizing the need for transparency and accountability in all research activities.

11. The fourth section discusses the challenges and limitations of the research methods used in this study.

12. While these methods provide valuable insights, they also have certain drawbacks that must be acknowledged.

13. For example, self-reported data may be subject to bias, and the sample size may not be representative of the entire population.

14. Despite these limitations, the findings of this study are still considered to be highly relevant and informative.

15. The fifth part of the document provides a detailed overview of the data collected during the study.

16. This includes a breakdown of the responses for each variable and a comparison of the results across different groups.

17. The data shows a clear trend in the responses, which supports the hypotheses of the study.

18. These findings are consistent with previous research in this area and provide new insights into the phenomenon being studied.

19. The final section of the document discusses the implications of these findings for future research and practice.

20. It is suggested that further studies be conducted to explore the underlying mechanisms and to test the generalizability of the results.

21. In conclusion, this study has provided a comprehensive analysis of the research topic and has identified key areas for future exploration.

22. The authors express their gratitude to the participants and the funding agencies that made this research possible.

OFFICE OF THE STATE REGISTER INSERTION ORDER (eff.9/96)

1051 North Third Street Post Office Box 94095
Baton Rouge, LA 70804-9095 (504)342-5015 FAX 342-1057

(SUBMIT A SEPARATE INSERTION ORDER PER DOCUMENT)

[] EMERGENCY RULE (ER); [] NOTICE OF INTENT (NOI); [] RULE; [] POTPOURRI

REFER TO INSTRUCTIONS ON REVERSE SIDE

This is your authority to publish in the (month) _____, 19 _____ Louisiana Register the document indicated above.

Office/Board/Commission promulgating this document

Department under which office/board/commission is classified

(name) (title)
Name and title of person whose signature will appear in the publication (at the end of the document)

(name) (phone) (fax)
Name, phone number, and FAX number of person to contact regarding this document

Provide a short descriptive listing for this document to be used in the Louisiana Register's TABLE OF CONTENTS/INDEX (note: this description should match the fiscal statement title, if sending a NOI):

*If sending a diskette, indicate the name of the file on diskette:

Important: If submitting both an ER and a NOI to be published this month, AND if the rule text in the ER is identical to the rule text in the NOI, check here: []

Signature of Agency Head or Designee

Print Name and Title of Agency Head or Designee

CERTIFICATION OF AVAILABLE FUNDS

DOCUMENT # _____

[] ISIS AGENCY: I certify the availability of fiscal year _____ appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

AGENCY ORGANIZATION # OBJECT SUB-OBJECT REPORTING CATEGORY

[] NON-ISIS AGENCY: I certify the availability of fiscal year _____ appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

Billing Address for Agencies:

Signature of Agency Head or Designee - Phone #

Agency Name

Street Address or Post Office Box

City ST Zipcode

Office of the State Register Use Only

1/4 PG + ___ Lines 1/2 PG + ___ Lines 3/4 PG + ___ Lines

___ Full PG(s) + ___ Lines Typesetting ___ TOTAL ___

EMERGENCY RULE (ER) INSTRUCTIONS:

1) For an ER which **HAS NOT BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous ER or as a NOI), send the new ER on *diskette and include in this order: opening/introductory paragraphs containing effective date and number of days ER in effect; and rule text in LAC codified form with updated Authority and Historical Notes.

2) For an ER which **HAS BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous ER or as a NOI):

a) if **MINOR REVISIONS** are made, XEROX a copy of the previous ER or NOI from the *Louisiana Register*, and show changes/revisions with a red pen; or

*b) if **MAJOR REVISIONS** are made, send a new ER on *diskette and include in this order: opening/introductory paragraphs containing effective date and number of days ER in effect; and rule text in LAC codified form with updated Authority and Historical Notes.

NOTICE OF INTENT (NOI) INSTRUCTIONS:

1) For a NOI which **HAS NOT BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous NOI or as an ER):

a) send the new NOI on *diskette and include, in this order: opening/introductory paragraphs; rule text in LAC codified form with updated Authority and Historical Notes; interested persons paragraph; and public hearing paragraph (if one is scheduled). **ALSO** send first page of fiscal statement containing **ORIGINAL** signatures.

2) For a NOI which **HAS BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous NOI or as an ER):

a) if **MINOR REVISIONS** are made, XEROX a copy of the previous NOI or ER from the *Louisiana Register*, and show changes/revisions with a red pen; send a *diskette with opening/introductory paragraphs; interested persons paragraph; and public hearing paragraph (if one is scheduled). **ALSO** send first page of fiscal statement containing **ORIGINAL** signatures; **OR**

*b) if **MAJOR REVISIONS** are made, send a new NOI on *diskette and include, in this order: opening/introductory paragraphs; rule text in LAC codified form with updated Authority and Historical Notes; interested persons paragraph; and public hearing paragraph (if one is scheduled). **ALSO** send first page of fiscal statement containing **ORIGINAL** signatures.

RULE INSTRUCTIONS:

1) If the NOI was published in full (rule text included) XEROX the entire NOI from the *Louisiana Register* (including page numbers and document number at the end of the fiscal statement) and show changes/revisions with a red pen.

2) If the NOI referenced the reader to rule text in an ER, XEROX the entire NOI from the *Louisiana Register* (including page numbers and document number at the end of the fiscal statement) and XEROX the entire ER from the *Louisiana Register* (including page numbers and document number at the end of the document); show changes/revisions with a red pen.

3) If the NOI was referenced (rule text was not printed) xerox the entire NOI from the *Louisiana Register* (including page numbers and document number at the end of the fiscal statement) and show changes/revisions with a red pen. **IMPORTANT: if changes/revisions have been made to the unpublished rule text since it was originally proposed through the NOI, send a NEW *diskette of the rule text with all changes incorporated into the document.**

POTPOURRI INSTRUCTIONS:

Send a *diskette containing the document.