

CONTENTS

I. EMERGENCY RULES

Economic Development Department:	
Office of Financial Institutions—Self-Help Repossession.....	1338
Education Department:	
Board of Elementary and Secondary Education—Bulletin 1191, School Transportation Handbook.....	1346
Bulletin 1573, Complaint Management System	1346
Bulletin 1706, Exceptional Children’s Act.....	1346
Flex Hiring Schedule for Technical Institutes	1347
Louisiana Components of Effective Teaching (LCET)	1347
Health and Hospitals Department:	
Board of Veterinary Medicine—National Examining Scoring Method	1347
Office of the Secretary, Bureau of Health Services Financing—MAP—Facility Need Review—Downsized ICF/MR Beds	1347
MAP—Medicaid Eligibility—Countable Resources	1348
MAP—Medicaid-Nurse Aide Decertification.....	1349
MAP—Nursing Facility—Infectious Disease	1350
Social Services Department:	
Office of Family Support—Food Stamp Program	1351
Individual and Family Grant Program.....	1352
State Department:	
Office of the Secretary—Election of a Classified State Employee to the Civil Service Commission	1352
Treasury Department:	
Board of Trustees of the State Employees’ Group Benefits Program—Plan Document Revision	1353
Disability Application	1354
Bond Commission—Line of Credit	1354
Wildlife and Fisheries Department:	
Wildlife and Fisheries Commission—Fall Inshore White Shrimp Season Closure	1355

II. RULES

Agriculture and Forestry Department:	
Office of Animal Health Science, Livestock Sanitary Board-Dead Poultry Disposal (LAC 7:XXI.11771)	1355
Culture, Recreation and Tourism Department:	
Office of the State Library of Louisiana—Public Library Construction and Technological Enhancement (LAC 25:VII.Chapter 21).....	1356
Economic Development Department:	
Louisiana Economic Development Corporation—BIDCO Investment Program (LAC 19:X.Chapter 1)	1357
Environmental Quality Department:	
Office of Air Quality and Radiation Protection, Air Quality Division—Toxic Air Pollutants (AQ62) (LAC 33:III.Chapter 51)	1362
Office of Solid and Hazardous Waste, Hazardous Waste Division—Hazardous Waste Boilers/Industrial Furnaces II (HW32) (LAC 33:V.Subpart 1)	1375
Wood Preserving (HW33) (LAC 33:V.Subpart 1).....	1375
Governor’s Office:	
Division of Administration, Office of Telecommunications Management—Non-state Entity (LAC 4:IX.503)	1375
Office of Elderly Affairs—Corporate Eldercare Case Management (LAC 4:VII.Chapters 11 and 12).....	1376
Health and Hospitals Department:	
Board of Chiropractic Examiners—Continuing Education and General Practice (LAC 46:XXVII.Chapter 1)	1378
Board of Pharmacy—Prescription Dispensing, Patient Counseling, Pharmacy Support Staff, Prospective Drug Review, Out-of-State Requirements (LAC 46:LIII.Chapters 9 and 23)	1378
Office of Public Health—Sanitary Code, Day Care Centers and Residential Facilities (Chapter XXI)	1381
Sanitary Code, Yellow Fever Vaccination Centers Certification (Chapter II)	1386
Office of the Secretary—Community and Family Support System Cash Subsidy (LAC 48:I.Chapter 1)	1390
Informed Consent.....	1391

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Title XIX Medicaid Program—Chiropractors Services	1401
Bureau of Health Services Financing—Utilization Review	1401
Insurance Department:	
Commissioner of Insurance—Regulation 40—LLHIGA Act Summary	
Document and Disclaimer and Notice of Noncoverage	1401
Regulation 42—Group Self-Insurance Funds	1403
Regulation 43—Companies in Hazardous Financial Condition	1408
Regulation 44—Accelerated Benefits	1409
Natural Resources Department:	
Office of Conservation—Underwater Obstructions (LAC 43:IX.301 and 311)	1411
Revenue and Taxation Department:	
Sales Tax Division—Pollution Control Devices-Sales Tax Relief (LAC 61:I.4302)	1414
Social Services Department:	
Office of the Secretary—Child Care Assistance Program-Repeal Title IV-A At-Risk (LAC 67:I.101, 102).....	1415
Community and Family Support System Cash Subsidy (LAC 48:I.Chapter 1).....	1390
Transportation and Development Department:	
Office of Engineering—Utility Relocation Assistance Funding (LAC 70:III.1101)	1415
Treasury Department:	
Board of Trustees of the State Employees Group Retirement System—Retiree Benefits Voluntary Payroll Deductions	1417
Bond Commission—Reporting Requirements for Bond Issuer	1418
Deferred Compensation Commission—Member Nomination and Election	1418
Teachers' Retirement System—Deferred Retirement Option Plan	1419
Wildlife and Fisheries Department:	
Wildlife and Fisheries Commission—Striped Mullet (LAC 76:VII.343)	1420

III. NOTICES OF INTENT

Civil Service Department:	
Civil Service Commission - Certification of Eligibles.....	1420
Culture, Recreation and Tourism Department:	
Office of State Parks - General Provisions; Fees (LAC 25:IX.Chapters 1-7).....	1421
Economic Development Department:	
Board of Cosmetology - Amendments Reflecting Legislative Changes (LAC 46:XXXI.Chapters 1-17)	1422
Education Department:	
Board of Elementary and Secondary Education—Bulletin 741, Homeless Children and Youth.....	1423
Bulletin 1868—BESE Personnel Manual	1424
Student Financial Assistance Commission, Office of Student Financial Assistance—Louisiana Honors Scholarship	1424
Environmental Quality Department:	
Office of Air Quality and Radiation Protection, Air Quality Division—Permit Procedures—Emissions from Nonattainment Areas (AQ66)(LAC 33:III.504)	1428
Waste Gas Disposal (AQ68)(LAC 33:III.2115.H)	1428
Governor's Office:	
Division of Administration, Office of State Uniform Payroll—Payroll Deduction (LAC 4:III.Chapter 1)	1429
Office of Elderly Affairs-Adult Protective Services (LAC 4:VII.1239)	1430
Health and Hospitals Department:	
Board of Veterinary Medicine - Licensure Procedures to Practice Veterinary Medicine (LAC 46:LXXXV.Chapter 3)	1430
Public Hearings and Meetings (LAC 46:LXXXV.Chapter 1)	1432
Office of Alcohol and Drug Abuse - Group Homes for Recovering Substance Abusers (LAC 48:VII.Chapter 7)	1434
Office of Management and Finance - Health Care Services Provider Fee	1435
Office of Mental Health - Qualified Mental Health Professional (LAC 48:III.103)	1437
Office of the Secretary - Bureau of Health Services Financing-Mental Health Rehabilitation Services	1438
Nursing Facility—Infectious Disease.....	1439
Nursing Facility—Neurological Rehabilitation Treatment Program	1439
Software Product Approval on Medicaid Eligibility Determination.....	1440
Public Safety and Corrections Department:	
Office of State Police, Transportation and Environmental Safety Section— Motor Carrier Safety and Hazardous Materials Transportation (LAC 33:V.10303,10311).....	1441
Social Services Department:	
Office of Family Support - AFDC Parenting Skills Program (LAC 67:III.1518)	1442
Transportation and Development Department:	
Office of the General Counsel - Exemptions from Tolls on the Sunshine Bridge (LAC 70:I.505).....	1443
Office of the Secretary - Display of Flags (LAC 70:III.501)	1444
Wildlife and Fisheries Department:	
Office of Fisheries - Sturgeon (LAC 76:VII.145)	1444
Triploid Grass Carp (LAC 76:VII.901)	1445
Wildlife and Fisheries Commission - King and Spanish Mackerel and Cobia Daily Take (LAC 76:VII.327).....	1447

IV. POTPOURRI

Economic Development Department:
Office of Financial Institutions-Judicial Interest.....1447

Environmental Quality Department:
Office of Solid and Hazardous Waste-Substantive Changes Meeting (SW05s)(LAC 33:VII.Chapters 1-11).....1448

Governor's Office:
Office of Coastal Activities - Public Hearing1448

Health and Hospitals Department:
Office of the Secretary, Bureau of Health Services Financing—Alcohol and Drug Abuse Entity Licensing1449

Social Services Department:
Office of the Secretary - ADA Self-Evaluation1449

State Senate:
Office of Fiscal Affairs and Policy Development - Revenue Estimate1449

EMERGENCY RULES

DECLARATION OF EMERGENCY

Department of Economic Development
Office of Financial Institutions

Self-Help Repossession

The Commissioner of Financial Institutions is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 6:966(J)(3)(e) adopts the following emergency rule.

This emergency adoption is necessary in order that the Office of Financial Institutions implements procedures for application for, issuance of, renewal of, and revocation of a license as well as any necessary or convenient ancillaries thereto. It is also necessary to institute a schedule of fees for licensing, applying, and other functions that will recover costs, based upon the anticipated or experienced work of this office.

The effective date of this Emergency Rule is January 1, 1993, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever is shortest.

EMERGENCY RULE

§1. Definitions.

The following terms as used in this rule shall have the following meanings:

Advertisement—any written or printed communication, including a directory listing, except a free telephone directory listing which does not allow space for a license number.

Assignment—an authorization by the legal owner, lienholder, or lessor, or lessee to recover, or to collect money payment in lieu of recovery of, personal property, including, but not limited to, personal property registered under the Louisiana Vehicle Certificate of Title Law R.S. 32:701, et seq., which is subject to a security interest under Chapter 9 of the Louisiana Commercial Laws, R.S. 10:9-101, et seq. or a chattel mortgage under R.S. 9:5351 et seq., R.S. 9:5367, et seq., or R.S. 32:701, et seq., as applicable. *Assignment* also means an authorization by the registered owner to recover personal property registered under the Louisiana Vehicle Certificate of Title Law where an employer-employee relationship exists or existed between the registered owner and the possessor of the property and the possessor is wrongfully in possession of the property.

Combustibles—any substance or article that is capable of undergoing combustion or catching fire, or that is flammable, if retained.

Commissioner—the commissioner of Financial Institutions.

Dangerous Drugs—any controlled substances as defined in the Uniform Controlled Dangerous Substances Law, R.S. 40:961, et seq.

Deadly Weapon—any instrument or weapon of the kind commonly known as a blackjack, slingshot, bill, sandclub,

sandbag, metal knuckles, dirk, dagger, pistol, or revolver, or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade, and any metal pipe or bar used or intended to be used as a club.

Employee—a person registered under this rule.

Health Hazard—any personal effect which if retained would produce an unsanitary or unhealthful condition.

Legal Owner—a person holding a security interest in personal property which has been sold, leased, or rented under a security agreement.

Licensee—an individual, partnership, or corporation licensed under this rule as a repossession agency.

Office—the Office of Financial Institutions.

Person—any individual, partnership, or corporation.

Personal Effects—any property contained within repossessed personal property which is not the property of the legal owner and which has not been installed in or fixed to the personal property nor otherwise become a part thereof.

Personal Property—any vehicle, boat, recreational vehicle, motor home, appliance, or other property which is subject to a security interest or chattel mortgage.

Private Building—any dwelling, outbuilding, or other enclosed structure.

Secured Area—and includes any fenced and locked area.

Security Agreement—an agreement which creates or provides for a security interest, as provided in Chapter 9 of the Louisiana Commercial Laws, R.S. 10:9-101, et seq.

Services—any duty or labor to be rendered by one person for another.

Violent Act—any act which results in bodily harm or injury to any party involved.

§2.1. Repossession Agency.

A *repossession agency*—any person who, for any consideration whatsoever, engages in business or accepts employment to locate or recover personal property, including, but not limited to, personal property registered under the provisions of the Louisiana Vehicle Certificate of Title Law, R.S. 32:701, et seq., which has been sold under a security agreement, except for any person registered pursuant to § 8.1 through and including § 8.11.

§ 2.2. A repossession agency shall not include any of the following:

A. any bank subject to the jurisdiction of the commissioner of Financial Institutions of the State of Louisiana or the Comptroller of the Currency of the United States;

B. any person organized, chartered, or holding a license or authorized to make loans pursuant to the laws of this state or the United States who is subject to supervision by the commissioner of Financial Institutions of this state or the United States;

C. the legal owner of personal property which is subject to a security interest;

D. a person employed exclusively and regularly by one employer in connection with the affairs of that employer only, and where there exists an employer-employee relationship.

§3. Valid Repossession Agency License.

No person shall engage within this state in the activities of a repossession agency (as defined in §2.1) unless the person holds a valid repossession agency license or is exempt from licensure pursuant to §2.2.

§4. Violations/Violators.

Any person who violates any provision of this rule, or who conspires with another person to violate any provision of this rule, or who knowingly engages a nonexempt unlicensed person to repossess personal property on its behalf, after being duly notified by the office in writing of the nonexempt unlicensed person's unlicensed status with the office, is guilty of a misdemeanor; and is punishable by a fine of \$5,000, or by imprisonment in the parish jail for not more than one year, or by both the fine and imprisonment.

Any Louisiana creditor knowingly engages a nonexempt unlicensed person to repossess personal property on its behalf, after being duly notified by the office in writing of the nonexempt unlicensed person's unlicensed status with this office may be assessed a civil money penalty up to \$5,000.

§5.1. Application for Repossession Agency License.

A. An application for a repossession agency license shall be made in writing to, and filed with the office in the form that may be required by the commissioner and shall be accompanied by the original license fee prescribed by this rule. The commissioner may require the submission of any other pertinent information, evidence, statements, or documents.

B. Every application for a repossession agency license shall state, among other things that may be required, the name of the applicant and the name under which the applicant will do business, the location by number and street and city of the office of the business for which the license is sought, and the usual business hours the business will maintain. The applicant's residence address, residence telephone number, social security number, date of birth, and driver's license number, if requested, shall be confidential and shall not be released to the public.

C. No license shall be issued in any name which may be confused with or which is similar to any federal, state, parish, or municipal governmental function or agency, or in any name which may tend to describe any business function or enterprise not actually engaged in by the applicant, or in any name which is the same as or so similar to that of any existing licensee as would tend to deceive the public, or in any name which would otherwise tend to be deceptive or misleading.

§5.2. Applicant.

If the applicant for license is an individual, the application shall state the full residence address of the applicant and that the applicant is to be personally and actively in charge of the business for which the license is sought, or if any other qualified applicant is to be actively in charge of such business, the application shall so state and set forth the name of such person. The application shall also state whether the applicant has ever used an alias. The application shall be signed and notarized by the applicant and, if any other person is to be actively in charge of the business, the application shall also be signed and notarized by such person.

§5.3. Applicant Copartners.

If the applicants for license are copartners, the application shall state the true names and addresses of all partners and the names of the partner to be actively in charge of the business for which the license is sought. If a qualified certificate holder other than a partner is to be actively in charge of the business then the application shall state the name and address of that

person. The application shall be subscribed and verified by all the partners and, if any other person is to be actively in charge of the business, the application shall also be subscribed and verified by such person. The application shall also state whether any of the partners has ever used an alias.

§5.4. Information on Application.

If the applicant for license is a corporation, the application shall state the true names and complete residence addresses of all officers. The application shall also state the name and address of the person to be actively in charge of the business for which the license is sought. The application shall be subscribed and verified by a duly authorized officer of the applicant and by the qualified certificate holder thereof. The application shall also state whether any of the officers named therein has ever used an alias.

§5.5. License Denial.

A. If the commissioner determines that the applicant, if an individual, or if the applicant is a person other than an individual, that its manager and any of its officers and partners have committed any of the following acts, the commissioner may deny the license:

1. committed any act, which if committed by a licensee, would be a ground for the suspension or revocation of a license under this rule;
2. committed any act evidencing dishonesty or fraud;
3. been refused a license under this rule or had a license revoked;
4. been an officer, partner, or manager or any person who has been refused a license under this rule or whose license has been revoked;
5. committed, or aided and abetted the commission of, any act for which a license is required by this rule while unlicensed;
6. knowingly made any false statement in his or her application.

B. The denial shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a hearing to contest the denial, the hearing shall be requested of the commissioner, in writing, within 30 days of the issuance of the denial.

C. The commissioner may, in his discretion, conduct such investigations and hearings as he deems necessary to ascertain possible violations of this rule. Such hearings shall be private unless the commissioner, in his sole discretion and after considering the views of the person afforded the hearing, determines that a public hearing is necessary to protect the public interest.

§5.6. Pending Final Disposition.

No license may be issued to any applicant pending final disposition of any disciplinary action by the commissioner previously filed against the person or applicant or against any partner or officer of the applicant.

§5.7. License Form and Content.

The form and content of the license shall be determined by the commissioner.

§5.8. License Display.

Each repossession agency license or duplicate license, together with current renewal license, if any, shall at all times be conspicuously displayed at the place of business on record with the office.

§5.9. Nontransferable.

A repossession agency license issued under this rule is not transferable.

§5.10. Expired License. An expired license may be reinstated within one year of the date of expiration upon compliance with the provision of this rule, application by the licensee, and payment of any and all fines assessed by the commissioner and payment of the reinstatement fee provided by this rule. Reinstatement of an expired license shall not prohibit the bringing of disciplinary proceedings for any act committed in violation of this rule during the period the license is expired.

§5.11. Suspended License.

A suspended repossession agency license is subject to expiration and shall be renewed as provided herein, but renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

§5.12. Revoked License.

A revoked repossession agency license is subject to expiration as provided herein, but it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

§5.13. Expired License.

A. A repossession agency license which is not renewed within one year after its expiration may not be renewed, restored, reinstated, or reissued thereafter.

B. The holder of the repossession agency license may obtain a new license only upon compliance with all of the provisions of this rule relating to the issuance of an original license.

§6.1. Qualifications.

A. Except as otherwise provided in this rule, an applicant for a repossession licensure shall comply with all of the following:

1. be at least 18 years of age;
2. have no felony convictions;
3. be a Louisiana resident;

4. have been, for at least one year of lawful experience, during the five years preceding the date on which his or her application is filed, an employee of a licensed repossession agency who has worked with a licensed agent within this state or have had one year of lawful experience in recovering personal property subject to a security interest within this state. Lawful experience shall mean experience in recovering personal property subject to a security interest as a registrant pursuant to this rule or as a salaried employee of any entity exempted by §2.2 A. and B. of this rule or a vehicle dealer.

B. A year's experience shall consist of not less than 2,000 hours of actual compensated work performed by the applicant with a licensed agent preceding the filing of an application.

C. An applicant shall substantiate the claimed hours of qualifying experience and the exact details as to the character and nature thereof by written certifications from the employer, subject to independent verification by the commissioner as he may determine. In the event of inability of an applicant to

supply the written certifications from the employer in whole or in part, applicants may offer other written certifications from persons other than employers substantiating employment for consideration by the commissioner.

D. An applicant who as of January 1, 1993, has engaged in the repossession business for at least the three previous years and is a member of any of the following organizations: National Finance Adjustors, Inc., Allied Finance Adjusters Conference, Inc., Time Adjusters Conference, Inc. and American Recovery Association, Inc. shall not be required to comply with the experience requirements or subsequent verification thereof enumerated previously but may be licensed on the basis of the experience and membership within the listed organizations.

E. Complete and forward to the office a qualified certificate holder application which shall be on a form prescribed by the commissioner. The applicant's residence address, residence telephone number, social security number, date of birth, and driver's license number, if requested, shall be confidential and shall not be released to the public.

F. Post a bond in the aggregate amount of \$100,000. The bond shall be filed with the Office of Financial Institutions or the applicant may file proof satisfactory to the commissioner that he is bonded under his membership in one or more of the organizations previously enumerated in an amount at least equal to \$100,000. Should a licensee ever become disassociated from one of the organizations, then he must post the appropriate bond with the Office of Financial Institutions.

G. Pay the required application fees to the office.

§6.2. Qualification Certificate Refusal.

A. The commissioner may refuse to issue a qualification certificate, or may suspend or revoke a previously issued qualification certificate, if the individual has committed any act which, if committed by a licensee, would be grounds for refusing to issue a license, or for the suspension or revocation of a license under this rule.

B. The denial shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a hearing to contest the denial, the hearing shall be requested of the commissioner within 30 days of the issuance of the denial.

C. The commissioner may, in his discretion, conduct such investigations and hearings as he deems necessary to ascertain possible violations of this rule. Such hearings shall be private unless the commissioner, in his sole discretion and after considering the views of the person afforded the hearing, determines that a public hearing is necessary to protect the public interest.

§7.1. Locations.

A. A licensee desiring to operate a repossession business at a location other than the address shown on his or her license shall apply and qualify for a license for each additional location. A licensee desiring to operate a repossession business under one or more trade styles shall apply and qualify for a license for each trade style. No licensee shall indicate, or cause to be indicated, in any printed matter, or in any directory or listing, that he or she conducts a repossession business under any name, or at any address, other than the names and addresses for which he or she is licensed.

B. An application for a license for an additional location or

an additional trade style shall be in the same form, and the applicant shall meet the same requirements, as for an original license.

§7.2. Management.

Every office licensed as a repossession agency shall be under the active charge of a qualified certificate holder.

§7.3. Management Replacements.

A. Whenever a qualified certificate holder actively in charge of an office ceases to be in charge, the licensee shall file with the office notice, in writing, within 30 days from such cessation.

1. If the notice is filed, the license shall remain in force for a period of 90 days after the filing of the notice. At the end of the 90-day period or an additional period, not to exceed one year, as specified by the commissioner, if written notice is not given that a qualified person is then actively in charge of the office, the agency licensee shall be automatically suspended.

2. A license suspended under this section may be reinstated upon payment of the reinstatement fee and submission of a reinstatement application.

3. A person who performs any act for which a repossession agency license is required during the period of suspension is subject to appropriate action by the commissioner as enumerated in this rule.

B. In case of the death of a person licensed as an individual, a member of the immediate family of the deceased licensee shall be entitled to continue the business under the same license for 120 days following the death of the licensee, provided that written notice is made to the office within 30 days following the death of the licensee. At the end of the 120 day period, the license shall be automatically canceled. If no request is received within the 30 day period, the license shall be automatically canceled at the end of that period.

C. In the case of the death or disassociation of a partner of an entity licensed as a partnership, the licensee shall notify the office, in writing, within 30 days from the death or disassociation of the individual. If notice is given, the licensee shall remain in force for 90 days following the death or disassociation. At the end of that period, the license shall be automatically canceled. If the licensee fails to notify the office within the 30-day period, the license shall be automatically canceled at the end of that period.

D. A license extended under this Section is subject to all other provisions of this rule.

§7.4. License Revocation.

Except as herein otherwise provided, no person shall be in charge of any licensed office if the person has ever had a license revoked or suspended or has ever been denied registration pursuant to Rule 8.1 through 8.12 or if the person was a partner, managing employee, or officer, of a repossession agency the license of which has been revoked for cause.

§7.5. Officers.

The person deemed to be actively in charge of an officer shall be the holder of a qualification certificate and the certificate, together with the current renewal certificate, shall be prominently displayed below the repossession agency's license. The person shall spend over 51 percent of the usual business hours in the conduct of the business at the licensed location. The person shall share equally with the licensee the responsibility for the conduct of the business and the personnel

of the licensed agency. This Section shall not apply to any licensee who notifies the office in writing that the licensee is not conducting any business, but wishes to maintain a current license status with the office. When the licensee resumes conducting business, the licensee shall so inform the office in writing within 30 days.

REGISTRATION

§8.1. Definitions.

As used in this Section:

Licensee—a repossession agency licensed under this rule.

Multiple Licensee—a repossession agency holding more than one repossession license under this rule, with one trade style and ownership, conducting repossession business from additional licensed locations other than the location shown on the original license.

Repossessor Employee—a person employed by a licensee or multiple licensee registered with the commissioner as provided in this section.

§8.2. Initial Registration/Reregistration.

Except as otherwise provided in this Section every person entering the employ of a licensee or multiple licensee after the effective date of this Section shall immediately complete an application for an initial registration or a reregistration and shall file the appropriate application with the commissioner within 15 working days after the commencement of employment for the licensee or multiple licensee for whom the applicant is employed. Applicants for registration must be at least 18 years of age.

B. An initial registration application shall be required of those persons who have not previously submitted an application for, or been registered as, a reposessor employee.

C. A reregistration application shall be required of those persons who have previously submitted or been registered as a reposessor employee.

D. No registered employee of a multiple licensee shall be required to file more than one application for registration or reregistration for each multiple licensee.

§8.3. Application Fees.

The application for an initial registration or a reregistration under this Section shall be on a form prescribed by the commissioner and shall be accompanied by the fee provided for in §12.1.

§8.4. Application Information.

All information obtained on the application shall be confidential and shall not be released to the public except for the registrant's full name, employer's name and address, and the registration number. The application shall be verified and shall include:

1. the full name, residence address, residence telephone number, date and place of birth, social security number, and driver's license number of the employee;

2. a statement listing any and all names used by the employee, other than the name by which he or she is currently known. If the employee has never used a name other than his or her true name, this fact shall be set forth in the statement;

3. the name and address of the employer and the date the employment commenced;

4. the title of the position occupied by the employee and a description of his or her duties.

§8.5. Registration Exceptions.

Qualified certificate holders who comply with other provisions of this rule are not required to register under this Section.

§8.6. Nonrepossessors in Office.

Employees of a licensee who are engaged exclusively in stenographic, typing, filing, clerical, in-office skiptracing, or other activities, which do not constitute the work of a reposessor as described in §2.1, are not required to register under this Section.

§8.7. Registration Refusal.

A. The commissioner may refuse to register any employee if the individual has failed to pay any or all fines assessed pursuant to any applicable section of this rule and not resolved in accordance with that section, or has committed any act which, if committed by a licensee, would be grounds for refusing to issue a license or for the suspension or revocation of a license under this rule, or has committed acts or crimes constituting grounds for denial or a license.

1. The denial shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a hearing to contest the denial, the hearing shall be requested of the commissioner, in writing, within 30 days of the issuance of the denial.

2. The commissioner may, in his discretion, conduct such investigations and hearings as he deems necessary to ascertain possible violations of this rule. Such hearings shall be private unless the commissioner, in his sole discretion and after considering the views of the person afforded the hearing, determines that a public hearing is necessary to protect the public interest.

B. The commissioner may suspend or revoke a registration if the registrant has committed any act which, if committed by a licensee, would be grounds for refusing to issue a license or for the suspension or revocation of a license under this rule.

§8.8. Renewal.

A. At least 60 days prior to the expiration of each registration, the office shall mail a renewal form to the registrant at the licensee's place of business. A registrant who desires to renew his or her registration shall forward to the office for each registration the properly completed renewal form obtained from the office, with the renewal fee prescribed by this rule, for renewal of his or her registration. If the properly completed renewal form with the renewal fee is not received by January 31 then a penalty fee for renewal shall be assessed.

B. A licensee shall provide to his or her employees information regarding procedures for renewal of registration.

C. A registration that is not renewed within one year of its expiration may not be renewed. The renewal fee for a renewal after expiration shall be the same as a renewal fee and any applicable penalties. Registrants working with expired registrations shall pay all accrued fees and penalties prior to renewal or reregistration.

D. Upon renewal, evidence of renewal, as the commissioner may prescribe, shall be issued to the registrant. If evidence of renewal has not been delivered to the registrant prior to the date of expiration, the registrant may present evidence of renewal to substantiate continued registration for a period not to exceed 60 days after the date of expiration.

E. A registration shall not be renewed until any and all fines

assessed pursuant to this rule and not resolved in accordance with this rule have been paid.

§8.9. Validity.

A. Each registration is valid until the registrant ceases employment with a licensee or until the registration expires.

B. Each person registered under this Section shall notify the commissioner, in writing, within 30 days of any change in employment with a licensee. If the person ceases to be employed by a licensee, the licensee shall notify the commissioner, in writing, within 30 days. If at some subsequent time the person is again employed by a licensee, he or she shall apply for reregistration in the manner provided in this Section.

C. Each employee while registered shall notify the commissioner, in writing, within 30 days after any change in his or her residence address.

§8.10. Registration Responsibility.

A. The licensee shall at all times be responsible for ascertaining that his or her employees subject to registration are currently registered or have made proper application for registration as provided in this Section. The licensee may not have in his or her employment a person subject to registration who has not registered within the time required or whose registration has expired, been revoked, been denied, been suspended, or been canceled.

B. The office shall keep current and accurate records of all persons registered under this Section.

§8.11. Suspension.

If the commissioner determines that continued employment of an applicant for registration in his or her current capacity may present undue hazard to public safety, the licensee, upon proper notification from the commissioner, shall suspend the applicant from employment in that capacity until the licensee is notified in writing by the commissioner within 60 days from the date of notification of suspension that the applicant's registration has been approved or denied.

CONDUCT OF BUSINESS

§9.1. Corporate Officers.

A licensee shall, within 30 days after such change, notify the office of any change of its corporate officers. Applications, on forms prescribed by the commissioner, shall be submitted by all new officers. The commissioner may suspend or revoke a license issued under this rule if the commissioner determines that at the time the person became an officer of a licensee, any of the facts stated in §5.6 existed.

§9.2. Address.

A licensee or a qualified certificate holder shall, within 30 days after such change, notify the office of any change of his or her address. The principal place of business may be at a residence or at a business address, but it shall be the place at which the licensee maintains a permanent office.

§9.3. Licensee Responsibilities.

A. A licensee shall at all times be responsible for those actions of his or her employees, including his or her manager, performed in violation of this rule when acting within the course and scope of his or her employment.

B. Each licensee shall maintain a file or record of the name, address, commencing date of employment, and position of each employee, and the date of termination of employment when an

employee is terminated. The file and records, together with usual payroll records, shall be available for inspection by the office, and copies thereof, and information pertaining thereto or contained therein, shall be submitted to the office upon request.

§9.4. Records.

A repossession agency shall be required to keep and maintain adequate records of all transactions, including, but not limited to, assignment forms; vehicle condition reports, including odometer readings; personal property inventory; notice of seizure; and records of all transactions pertaining to the sale of personal property which has been repossessed, including, but not limited to, bids solicited and received, cash received, remittances to the seller, and allocation of any moneys not so remitted to appropriate ledger accounts. Records shall be retained for a period of not less than four years and shall be available for examination by the office upon demand. In addition, personal property and personal effects storage areas shall be made accessible for inspection by the office upon demand.

§9.5. Incurred Services.

No charge shall be made for services incurred in connection with the recovery, transportation, and storage of personal property, including repair work, except under terms agreed to in writing by the responsible party at the time of the repossession authorization or specifically agreed upon at a subsequent time.

§9.6. Acts of Violence.

Within seven days after a violent act has occurred involving a licensee, or any officer, partner, qualified certificate holder, or employee of a licensee, while acting within the course and scope of his or her employment, which results in a police report or bodily harm or bodily injury, the licensee or the licensee's qualified certificate holder or the licensee's employee, shall mail or deliver to the commissioner a notice concerning the incident upon a form provided by the office.

§9.7. Final Civil Court Judgment.

Within seven days after receiving a final civil court judgment filed against the licensee or any officer, partner, qualified certificate holder, or employee of a licensee, for an amount of more than the then prevailing maximum claim that may be brought in a small claims court pertaining to an act done within the course and scope of his or her employment, the licensee, or his or her qualified certificate holder, or his or her employee, shall mail or deliver to the commissioner a copy of the judgment.

§9.8. Advertisement.

Every advertisement by a licensee, soliciting or advertising business, shall contain the licensee's name, address, and license number as they appear in the records of the office.

§9.9. Personal Effects.

A. If personal effects or other personal property not covered by a security agreement, are contained in or on personal property at the time it is recovered, the effects shall be removed from the property subject to the security interest, a complete and accurate inventory shall be made, and the personal effects shall be stored in a labeled container by the licensee at the location of the licensed agency as reflected in the records of the office for a minimum of 60 days in a secure manner, except those personal effects removed by or in the presence of the registered owner at the time the personal property was being repossessed.

B. The following items of personal effects are items determined to present a danger or health hazard when recovered by the licensee and shall be disposed of in the following manner:

1. Deadly weapons and dangerous drugs shall be turned over to a local law enforcement agency for retention. These items shall be entered on the inventory and a notation shall be made as to the date and the time and the place the deadly weapon or dangerous drug was turned over to the law enforcement agency, and a receipt from the law enforcement agency shall be maintained in the records of the repossession agency.

2. Combustibles shall be inventoried and noted as "disposed of, dangerous combustible," and the item shall be disposed of in a reasonable and safe manner.

3. Food and other health hazard items shall be inventoried and noted as "disposed of, health hazard," and disposed of in a reasonable and safe manner.

C. The inventory shall be in writing, shall state the date and time that it was made, shall include the name, address, business hours, and phone number of the person at the repossession agency to contact for recovering the personal effects and an itemization of all personal effect storage charges that will be made by the repossession agency and shall be signed by the repossession agency employee who performs the inventory.

D. The owner of the personal property shall have 48 hours in which to contact the seizing creditor and demand the return of his property. The inventory shall be provided to a creditor not later than 48 hours after the recovery of personal property, except that if:

1. the 48-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 72 hours after the recovery of personal property;

2. the 48-hour period encompasses a Saturday or Sunday, and a postal holiday, the inventory shall be provided no later than 96 hours after the recovery of personal property;

3. if inventory resulting from repossession of a yacht, motor home, or travel trailer is such that it shall take at least four hours to inventory, then the inventory shall be provided no later than 96 hours after the recovery of personal property. When the 96-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 120 hours after the recovery of personal property;

§9.10. Written Reports.

Any written report to a client shall be submitted by the licensee, the qualified certificate holder, or a person authorized by one or either of them, and the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in the report are true and correct.

§9.11. Tow Vehicles.

A. In the event a two-ton wrecker or tow vehicle is required to be used in the repossession, all Louisiana Regulatory Acts pertaining to said vehicles shall be adhered to. In addition, the owner of the tow vehicle and the operator shall be responsible for all personal effects located inside the seized collateral.

B. However, no two ton licensed wrecker or tow vehicle service can be used without a representative of the repossession agency being present at the time of the repossession of the

personal property and who shall remain present until the personal property has been secured and an inventory performed.

Prohibited Acts

§10.1. Fines.

The commissioner may assess administrative fines against any repossession agency licensee, qualified certificate holder, or registrants for any of the prohibited acts outlined in this Section.

§10.2. Administrative Fines.

The commissioner may assess administrative fines for the following prohibited acts:

1. Knowingly making any false report to his or her employer or client for whom information was being obtained. The fine shall be \$100 for the first violation, and \$500 for each violation thereafter;

2. Using an alias in connection with the official activities of the licensee's business. A notice of warning shall be issued for the first violation. Thereafter the fine shall be \$500 for each violation;

3. Appearing as an assignee party in any court proceeding involving claim and delivery, or other possessory court action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien, or any other lien. This Section shall not prohibit a licensee from appearing as a defendant in any of the preceding actions. The fine shall be \$100 for each violation.

§10.3. Fines Regarding Property.

The commissioner may assess administrative fines for any of the following prohibited acts:

1. Recovering personal property or making any money demand in lieu thereof, including, but not limited to, personal property registered under the Louisiana Vehicle Certificate of Title Law, which has been sold without authorization from the legal owner, lienholder, or lessor of the personal property. A telephonic assignment is acceptable if the legal owner, lienholder, or lessor is known to the licensee and a written authorization from the legal owner, lienholder, or lessor is received by the licensee within 10 working days or a request by the licensee for a written authorization from the legal owner, lienholder, or lessor is made in writing within 10 working days. Referrals of assignments from one licensee to another licensee with confirmation to the legal owner, lienholder, or lessor informing the legal owner, lienholder, or lessor of the name, address, and license number of the licensee to whom the referral was made are acceptable. The referral of an assignment shall be made under the same terms and conditions as in the original assignment. The fine shall be \$100 for each of the first five violations and \$500 for each violation thereafter, per audit.

2. Using personal property or personal effects, which have been recovered, for the personal benefit of a licensee, or officer, partner, manager, or employee of a licensee. The fine shall be \$100 for the first violation and \$500 for each violation thereafter. This paragraph does not apply to personal effects disposed of pursuant to § 9.9.

3. Selling personal property recovered under the provisions of this rule, except with written authorization from the legal owner or mortgagee thereof or holder of a security interest therein. The fine shall be \$100 for the first violation and \$500 for each violation thereafter, per audit.

4. Failing to remit all money due clients within 10 business days after finalization of the sale of personal property. The fine

shall be \$250 for the first violation and \$1,000 for each violation thereafter. For purposes of this paragraph, "finalization of sale" means the time when the documents of title or ownership which permit transfer of title from the legal owner to the purchaser are received by the repossession agency.

5. Failing to remit moneys collected in lieu of repossession or redemption to a client within 10 working days after receipt of the moneys. The fine shall be \$250 for the first violation and \$1,000 for each violation thereafter.

6. Failing to deliver to a client any negotiable instrument received by the licensee made payable to the client within 10 working days of receipt of the negotiable instrument. No licensee, manager, or employee of a licensee shall accept a negotiable instrument made payable to a client unless they have authorization from the client to accept such a negotiable instrument. The fine shall be \$250 for the first violation and \$1,000 for each violation thereafter.

7. Unlawfully entering any private building or secured area without the consent of the owner, or of the person in legal possession thereof, at the time of repossession. The fine shall be \$500 for each violation.

8. Committing unlawful assault or battery on another person. The fine shall be \$500 for each violation.

9. Falsification or alteration of an inventory. The fine shall be \$25 for each violation.

§10.4. False or Misleading Information Fines.

A licensee, or any of his or her employees, or qualified certificate holder, shall be prohibited from using any false or misleading representation during the course of recovery of personal property and may be issued a notice of warning for the first violation; assessed a \$100 fine for the second violation; and assessed a \$500 fine for any subsequent violation of any of the following:

1. The false representation or implication that the individual is vouched for, bonded by, or affiliated with the United States or with any state, parish, city or city and parish, including the use of any badge, uniform, or facsimile thereof.

2. The false representation or implication that any individual is any attorney or that any communication is from any attorney.

3. The representation or implication by a repossession agency or its employees that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person, unless such action is lawful and the creditor has instructed the repossession agency to inform the consumer that the creditor intends to take the action.

4. The threat to take any action that cannot legally be taken or that is not intended to be taken.

5. The false representation or implication that the consumer committed any crime or other conduct in order to disgrace the consumer.

6. The use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any state, or which creates a false impression as to its source, authorization, or approval.

7. Failure to disclose clearly in all communications made with the consumer to collect a debt or to obtain information about the consumer, that the repossession agency is attempting

to collect a debt and that any information obtained will be used for that purpose.

8. The false representation or implication that documents are legal process.

9. The use of any business, company, or organization name other than the true name of the repossession agency's business, company or organization.

10. The use of any deceptive forms.

§10.5. License Fines.

The commissioner may assess administrative fines for any of the following prohibited acts:

1. Conducting business from any location other than that location to which a license was issued or conducting a business as an individual, partnership, or corporation unless the licensee holds a valid license issued or conducting a business as an individual, partnership, or corporation unless the licensee holds a valid license issued to that exact same individual, partnership, or corporation. The fine shall be \$1,000 for each violation.

2. Aiding or abetting an unlicensed reposessor or transferring his or her license. "Transferring his or her license" means that no licensee shall permit an employee or agent in his or her own name to advertise, engage clients, furnish reports, or present bills to clients, or in any manner whatsoever to conduct business for which a license is required under this rule. The fine shall be \$1,000 for each violation.

3. Failing to register employees within 15 days. The fine shall be \$100 for each of the first two violations and \$500 for each violation thereafter, per audit.

4. Employing a reposessor employee whose registration has expired, been revoked, been denied, been suspended, or been canceled, if the office has furnished a listing of such employees to the licensee. The fine shall be \$500 for each violation.

5. Failing to notify the office, within 30 days, of any change in officers. A notice of warning shall be issued for the first violation. Thereafter the fine shall be \$100 for each violation.

6. Failing to present the debtor with an itemized receipt of payment, if payment is made in lieu of repossession. The fine shall be \$100 for the first violation and \$500 for each violation thereafter.

7. Failing to submit a notice regarding a violent act within seven days pursuant to §9.6 or to submit a copy of a judgment awarded against the licensee for an amount of more than \$500 within seven days pursuant to §9.7. The fine shall be \$100 for the first violation and \$500 per violation thereafter.

8. Failing to include the licensee's name, address and license number in any advertisement. A notice of warning shall be issued for the first violation. Thereafter, the fine shall be \$100 for each violation.

9. Failing to maintain personal effects for at least 60 days. The fine shall be \$100 for the first violation and \$500 for each violation thereafter.

§10.6. Employee Fines.

The commissioner may assess administrative fines against a repossession agency employee for the following acts, in addition to those imposed pursuant to any other paragraph in this Section. The fine shall be \$100 for each of the following violations:

1. knowingly submitting a false report to his or her employer;

2. submitting a report to a client without authorization by his or her employer;

3. failing to register.

§10.7. Miscellaneous Fines.

The commissioner may assess administrative fines against any repossession agency licensee, qualified certificate holder, or registrant for failure to notify the office within 30 days of any change of residence or business address. The fine shall be \$100 for each violation.

DISCIPLINARY PROCEEDINGS

§11.1. Actions.

The commissioner may suspend or revoke a repossession agency license, a qualification certificate, or registration issued under this rule if the commissioner determines that the licensee or the licensee's manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, partners, employees, or its manager, has:

1. made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement of a license;

2. violated any provisions of this rule;

3. violated any rule of the commissioner adopted pursuant to authority contained in this rule;

4. been convicted of a felony or any crime substantially related to the repossession agency business including illegally using, carrying, or possessing a deadly weapon;

5. committed or permitted any employee to commit any act while the license was expired which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license;

6. unlawfully committed assault, battery, or kidnapping, or used force or violence on any person;

7. knowingly violated, or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee;

8. been convicted of a violation for resisting or obstructing a police officer;

9. committed any act which is a ground for denial of an application for license under this rule;

10. committed any act in the course of the licensee's business constituting dishonesty or fraud, including, but not limited to:

a. knowingly making a false statement relating to evidence or information obtained in the course of employment, or knowingly publishing a slander or a libel in the course of business.

b. using illegal means in the collection or attempted collection of a debt or obligation.

§11.2. Conviction.

A. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

B. A plea or verdict of guilty or a conviction following a plea of nolo contendere shall be sufficient grounds for denial, revocation or suspension of a license or for other sanction provided by this section. The commissioner may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence.

ees

12.1. Fees.

The fees prescribed by this rule are as follows:

1. the application fee for an original repossession agency license is \$750;
2. the application fee for an original qualification certificate \$250;
3. the renewal fee for a repossession agency license is \$450 annually;
4. the renewal fee for a license as a qualified certificate holder is \$200 annually;
5. the reinstatement fee for a repossession agency license required pursuant to §5.12 and §7.3 is the amount equal to the renewal fee plus a penalty of 50 percent;
6. the reinstatement fee for a license as a qualified certificate holder required pursuant to §5.12 is the amount equal to the renewal fee plus a penalty of 50 percent;
7. an initial repossession employee registration fee is \$75, a repossession employee reregistration fee is \$50, and a repossession employee annual renewal fee is \$50 per registration. Notwithstanding, the reregistration fee for a repossession employee whose registration expired more than one year prior to the filing of the application for reregistration shall be \$75.
8. The commissioner shall furnish one copy of any issue or condition of the licensing law and rules and regulations to any applicant or licensee without charge. The commissioner shall charge and collect a fee to cover costs and handling for each additional copy which may be furnished on request to any applicant or licensee, and for each copy furnished on request to any other person.

Larry L. Murray
Commissioner

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

**Amendment to Bulletin 1191
School Transportation Handbook**

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and is readopting as an emergency rule, the a standard for the evaluation and determination of economic hardship for the curtailment of bus transportation as stipulated in R.S. 17:158(H) enacted into law during the 1992 session of the Legislature. This standard requires parish or city school boards seeking approval to eliminate or reduce the level of transportation services to students, for economically justifiable reasons, to submit with those requests certain budgetary information.

This standard which is an amendment to Bulletin 1191, School Transportation Handbook was adopted as an emergency rule, effective August 20, 1992, and printed in full in the August, 1992 issue of the *Louisiana Register*. This standard is readopted

as an emergency rule in order for the policy to continue until it is finalized as a rule. Effective date of this Emergency Rule is December 20, 1992.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

**Interim Changes to Bulletin 1573
Complaint Management System**

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act R.S. 49:953(B) and readopted as an emergency rule, the interim changes to Bulletin 1573, Complaint Management System. These interim changes were previously adopted as an emergency rule, effective August 20, 1992, and printed in full in the August 1992 issue of the *Louisiana Register*.

Readoption as an emergency rule is necessary in order to continue the present interim changes to Bulletin 1573 until they are finalized as a rule. Effective date of this Emergency Rule is December 20, 1992.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

**Interim Changes to Bulletin 1706 - Implementation of the
Exceptional Children's Act**

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and readopted as an emergency rule, the interim changes to Bulletin 1706, regulations for the implementation of the Exceptional Children's Act. Readoption as an emergency rule is necessary in order to continue the interim changes to Bulletin 1706 until they are finalized as a rule. Effective date of this Emergency Rule is December 20, 1992.

These interim changes to Bulletin 1706 were printed in full in the August, 1992 issue of the *Louisiana Register*.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Flex Hiring Schedule for Technical Institutes

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and suspended the flex hiring scale for technical institutes for one year which will enable all new personnel, with the exception of Practical Nursing instructors and individuals previously employed in the Postsecondary Technical Institute System to be employed at Step 1 until the walkover is fully funded. Practical Nursing instructors and instructors previously employed may be placed on the schedule up to and including Step 5.

This action, which is an amendment to Bulletin 1868, BESE Personnel Manual, Chapter D, Section 145, deletes No. 1 and No. 2 of the Salary Schedule for Postsecondary Vocational-Technical Personnel, FY 1991-92 which was adopted as an emergency rule, effective September 26, 1991 and printed in the October, 1991 issue of the *Louisiana Register*.

This board action will relieve problems associated with hiring individuals during Fiscal Year 1992-93 in the critical shortage areas and is part of the implementation procedure of the New Professional Development Salary Schedule approved by the 1992 Regular Session of the Legislature to Fund Act 612 passed by the 1991 Regular Session.

Readvertisement as an emergency rule is necessary in order to continue the policy changes until they are finalized as a rule. Effective date of this Emergency Rule is January 1, 1993.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Louisiana Components of Effective Teaching (LCET)

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act R.S. 49:953(B) and readopted as an emergency rule, the Louisiana Components of Effective Teaching (LCET): A Position Paper, Teacher Evaluation Panel Report, pages 13-18. This report was adopted as an emergency rule, effective September 1, 1992, and printed in full in the September 1992 issue of the *Louisiana Register*.

The Louisiana Components of Effective Teaching (LCET) is incorporated in revised Bulletin 1525, Personnel Evaluation, but will also be an independent instrument for use in other areas of teacher evaluation. Readoption is necessary in order to continue the present emergency rule until it can be finalized as a rule. Effective date of this Emergency Rule is January 1, 1993.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Veterinary Medicine

National Examination Scoring Method

The Department of Health and Hospitals, State Board of Veterinary Medicine has adopted an emergency rule in accordance with R.S. 49:953(B) and 954(B). This emergency rule is necessary to remain in compliance with the contract executed between the board and the Professional Examination Service (PES) for the period of July 1, 1992 through June 30, 1993. Under the terms of that contract, the board must adopt the nationwide, uniform scoring mechanism established by PES. Failure to do so will cause PES to refuse to provide, grade, or score the national examinations which the board is required by R.S. 37:1521 to administer annually.

EMERGENCY RULE

A passing score on the National Board Examination (NBE) and the Clinical Competency Test (CCT) shall be determined by the National Board of Veterinary Medical Examiners (NBVME) or its agent, designee or firm charged with the formulation, administration and grading of the national examinations. The formulation, administration and grading by the agent of the NBVME shall be conclusive.

This Emergency Rule is being adopted November 18, 1992 and will remain in effect for a period of 120 days or until this rule takes effect through the normal amendment process, whichever is shortest.

L. Mike Cummings, DVM
President, Board of Veterinary Medicine

DECLARATION OF EMERGENCY

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

Facility Need Review - Downsized ICF/MR Beds

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following emergency rule in the Medicaid Program in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1). There is no cost associated with the implementation of this Emergency Rule.

EMERGENCY RULE

Effective December 22, 1992, the Department of Health and Hospitals, Bureau of Health Services Financing, will require that before any Medical Assistance recipient is admitted to an intermediate care facility for the mentally retarded for services in a bed approved for Title XIX (Medicaid) reimbursement through the downsizing of a large residential facility (16 or more beds) to meet a specific disability need identified in a request for proposals issued by the department, prior approval

f the person to be admitted to the facility first be obtained by the provider from the regional office of Mental Retardation/Developmental Disabilities. Therefore, the policies and procedures for facility need review are being revised as follows:

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

When the Office of Mental Retardation/Developmental Disabilities advises Facility Need Review that a group or community home bed for the mentally retarded/developmentally disabled which was approved for Title XIX reimbursement through the downsizing of a large residential facility (16 or more beds) to meet a specific disability need identified in a request for proposals issued by the department, is not being used to meet the need identified in the request, approval of the bed shall be revoked. This determination by the Office of Mental Retardation/Developmental Disabilities shall be based on the facility serving a resident in the above referenced bed without prior approval from that office.

2502 A.6. Exception for Beds Approved from Downsizing Large Residential ICF/MRs (16 or more beds), page 8, the following shall be added as letter e:

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

Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

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

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Medicaid Eligibility—Countable Resources

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

Under Title XIX of the Social Security Act, Medicaid is not available to individuals whose countable resources are in excess of \$2,000 regardless of income. Exemption of resources has

historically been limited to home property where the beneficiary resides, personal belongings, and one vehicle. All other resources have been classified as countable with the exception of certain trust arrangements which are reviewed individually to determine whether they are countable or excludable. The application of this policy has resulted in unequal treatment of individuals based on the source of their retirement incomes. For example, retirement benefits such as Social Security, federal employees, state employees, and company pension plans which have no cash surrender value are not considered resources. Only the income received by the individual is considered in determining eligibility for Medicaid coverage.

However, annuities, individual retirement accounts, and other employee retirement plans which are controlled by the individual are considered countable resources and thereby subject to the \$2,000 federal limit. Individuals who have access to their total retirement funds are denied health care coverage under Medicaid until they have expended all but \$2,000 of their retirement funds. As a result, these individuals are forced into poverty with no means of future self-sufficiency prior to being covered by Medicaid. For individuals who have catastrophic medical conditions or are institutionalized for extended periods of time, this policy results in the impoverishment of individuals who would otherwise remain self-sufficient following receipt of needed medical treatment.

Based on review of the federal requirements on exclusion of certain resources and consultation with the Health Care Financing Administration, Medicaid of Louisiana has developed an exclusion policy allowing individuals to purchase qualifying income annuities which will be excluded from countable resources in determining eligibility for Medicaid health care coverage. Under this change in policy, an individual may utilize countable resources such as stocks, bonds, certificates of deposit, etc., to purchase a qualifying income annuity which provides a predictable monthly income to the individual during the term of the annuity. Such purchases shall be considered an allowable conversion of resources where the qualifying income annuity is payable to the purchaser under specific guidelines and limitations. The guidelines and limitations placed on qualifying income annuities have been developed to assure individuals are treated fairly and equitable in determining eligibility for Medicaid health care coverage and prevent utilization of annuities as a means of sheltering potential income from consideration in the determination of eligibility for Medicaid based on income limits and post eligibility application of income towards the cost of medical care. It is estimated that implementation of this Emergency Rule will cost approximately \$4 million per year.

This Emergency Rule is effective November 29, 1992 and is being adopted to enhance federal funding through refinancing of state expenditures and to protect the health and welfare of aged and disabled individuals by preventing further unnecessary impoverishment. This rule is effective for the maximum period allowed under R. S. 49:954(B) et seq.

EMERGENCY RULE

Effective November 29, 1992 countable resources, such as certificates of deposit, stocks, bonds, etc., which are used to purchase an income annuity of equal value shall not be

considered a transfer of resources where no change in ownership occurs. Such purchases shall be considered an allowable conversion and all payments from income annuities shall be considered income in the month received for determining Medicaid eligibility and post eligibility treatment of income. To qualify as an "income annuity" the annuity shall provide an annual income of no less than 1/16 of the annuity purchase price, in the form of uninterrupted monthly income payments to the purchaser during the life of the annuity unless:

1. the annuity provides the purchaser fixed monthly income payments which may be adjusted annually based on increases in the cost of living (COLA); and

2. any COLAs do not exceed the COLA percentage granted under Title XVIII of the Social Security Act to Social Security retirees by more than five percent in any year; and

3. the annuity provides for no lump sum or other type of benefit, payment, or disbursement during the life of the annuity; and

4. the annuity provides no payments, disbursements or benefits at or following the death of the purchaser to any individual, entity or other party including the purchaser.

Income payments made to the purchaser, shall be for no designated purpose or construction, specific or non-specific, and shall be disposable at the sole discretion of the purchaser during the remainder of the purchaser's life.

Implementation of this Emergency Rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

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

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Medicaid-Nurse Aide Decertification

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

In accordance with the Omnibus Budget Reconciliation Act of 1987 and federal regulations under 42 CFR 483.154; the Bureau of Health Services Financing published a final rule in the

Louisiana Register on August 20, 1991, on the certification of nursing aides under the Nursing Aide Training and Competency Evaluation Program which is administered by the Board of Examiners for Nursing Home Administrators. The rule also included provisions governing the investigation of allegations of neglect or abuse of residents and/or misappropriation of their property by a nurse aide employed in a nursing facility and the related matters of the administrative hearing under the Administrative Procedure Act R.S. 49:965 et seq. Under this Emergency Rule the Board of Examiners for Nursing Home Administrators must maintain a Nurse Aide Registry which includes documentation of any investigation showing codes for specific findings of residents' abuse, neglect, and/or misappropriated property and an accurate summary of findings after all required actions on such findings are finalized. However the earlier rule did not specifically provide for the decertification of nurses aides who were found to have committed such acts involving nursing facility residents. In addition, the rule does not provide for the inclusion of allegations of abuse, neglect or misappropriation of residents' property about a nurse aide on the Nurse Aide Registry. Therefore, in order to protect the health and welfare of nursing facility residents many of whom are particularly vulnerable from the possible harm, the following emergency rule is being adopted. There is no cost associated with the implementation of this Emergency Rule.

EMERGENCY RULE

Effective, December 22, 1992, the Bureau of Health Services Financing is incorporating the following provisions within the policies and procedures of the Nurse Aide Registry. All allegations of abuse, neglect and/or misappropriation of a resident's property by a nurse aide must be included in the documentation maintained by the Registry. In addition, a nurse aide convicted of abuse, neglect or misappropriation of a resident's property shall be decertified permanently. Pending action against a nurse aide involving allegation of abuse, neglect or misappropriation of a resident's property shall be noted on the Nurse Aide Registry.

Implementation of this Emergency Rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provision of this Emergency Rule and current policy will remain in effect.

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

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing
Nursing Facility - Infectious Disease

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following emergency rule providing for Nursing Facility - Infectious Disease reimbursement in the Medicaid Program for qualified Title XIX nursing facility patients in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1).

Currently in the Medicaid Program enhanced reimbursement for nursing facility services for persons with infectious disease is available to insure that the necessary highly skilled nursing care and treatment and the required application of infectious disease control measures are adequately included in the reimbursement methodology. The continued provision of this highly skilled level of patient care needed for these beneficiaries as well as the federal regulations under Title XIX mandate that providers of these services be reimbursed adequately. Therefore, in order to meet the needs of this patient group and to insure continued federal financial participation, Medicaid of Louisiana is adopting the infectious disease reimbursement rate for patients with methicillin-resistant staphylococcus aureus (MRSA) in accordance with the following specified medical criteria defining those patients to whom this enhanced reimbursement shall apply. Thus, the imminent peril to the health and welfare of those patients with this infectious disease shall be avoided through appropriate medical review and adequate compensation for care and treatment. It is projected that the total cost of this Emergency Rule will be \$4,517,988 during the first year of implementation.

EMERGENCY RULE

Effective December 22, 1992 the Bureau of Health Services Financing includes the reimbursement for skilled nursing services provided to nursing facility patients with methicillin-resistant staphylococcus aureus (MRSA) under the Nursing Facility—Infectious Disease reimbursement methodology in accordance with the following medical criteria which define those patients who are eligible for services at the enhanced rate. All required documentation, reporting or audit requirements applicable to those facilities seeking reimbursement under this rate for persons with AIDS or ARC also apply for this patient group. In addition, facilities certified to provide for this patient group must adhere to all agency standards for participation applicable to the providing of services to patients classified for the skilled level of care.

Medicaid of Louisiana has developed the following patient, criteria, facility requirements and standards for payment and related requirements which must be met in order for a Title XIX nursing facility patient to be classified for reimbursement under NF—Infectious Disease for methicillin-resistant staphylococcus aureus (MRSA).

I. The following patient criteria for reimbursement of services under the Infectious Disease (MRSA) rate must be met to establish the need for care at this designation. These criteria are

meant to be objective, self-explanatory and applicable to those patients seeking care at this designation. The patient shall:

- A. be in the active acute phase of an infection with MRSA and exhibit clinical signs and symptoms of infection;
- B. have an active infection as opposed to being a carrier (a person who is colonized with MRSA is without clinical manifestation);
- C. require IV antibiotic therapy given in the nursing facility or a hospital;
- D. require comprehensive skilled nursing;
- E. require that isolation procedures be initiated and maintained as the plan of care dictates.

II. Facilities seeking reimbursement for services to patients at this level care designation shall provide the following.

The facility shall:

- A. meet the medical and nursing needs of residents in the active phase of MRSA infection and maintain documentation of such care;
- B. have laboratory confirmation of a diagnosis of MRSA done by a laboratory certified by national standards. The report must clearly state whether or not MRSA is present in the specimen (a finding of just positive or negative is not acceptable);
- C. collect specimen for culture utilizing acceptable techniques or make arrangements for this to be done by a laboratory. This shall be done as soon as the facility becomes aware of infection and includes but is not limited to drainage from skin lesions, wounds, blood, sputum, urine and aspirations;
- D. institute isolation procedures immediately when a resident with indications of MRSA is admitted to the facility or there is an infection identified in house using the Center for Disease Control guidelines. These procedures shall be initiated even if the physician has not seen the resident or been contacted. These procedures shall be fully documented;
- E. have physician orders for each patient that are specific to each patient's situation. Standing orders shall not be used without the physician approval for each individual patient;
- F. be expected to insure that IV vancomycin therapy will be initiated under physician order when the MRSA has been identified in an active infection with tissue invasion. This therapy can be given within the hospital or in the nursing facility. Exceptions to vancomycin treatment may be made for debilitated and very aged patient(s), a history of sensitivity to this agent, and end stage renal disease. Any reason for exception to IV vancomycin therapy must be fully documented in the patient's chart;
- G. provide IV therapy in the nursing home only with registered nurse coverage for 24 hours a day under a registered nurse employed by the facility and with appropriate laboratory monitoring;
- H. provide continuous nursing assessment of any change in the patient status or therapy.
- I. provide aggressive wound care and other indicated nursing care. This must be administered by nurses skilled in these procedures and documentation maintained;
- J. provide social services by a masters level social worker and a registered dietician as dictated by the plan of care;

K. provide equipment, supplies and teaching necessary for significant others to visit the patients;

L. make the distinction between a carrier, a person who is colonized with MRSA and is without clinical manifestations and can transmit MRSA through direct contact and a person with a clinical diagnoses of MRSA;

M. evaluate an individual who is an asymptomatic carrier of MRSA with a complicating problem (example: tracheostomy, gastrostomy, colostomy) for need for IV vancomycin therapy;

N. have policy, procedures and ongoing education for enhanced universal quality assurance infection control;

O. be responsible for maintaining facility policies updated with current trends in infection control as outlined by the Center for Disease Control;

N. develop specific policies, practices and precautions for preventing transmission of infection in the facility for protection of patients and employees.

III. Examples of services for nursing facility patients with a clinical diagnosis of MRSA may include but are not limited to care of patients that demonstrate signs and symptoms compatible with tissue invasion locally or systemically as manifested by but not limited to: erythema, edema, cellulitis, abscessed furuncles, carbuncles, septicemai, osteomyelites, purulent drainage, elevated white count, elevated temperature, wound infections, urinary infection, tissue invasion, wound care, IV therapy, complication of MRSA infection, isolation techniques and procedures.

IV. Facility Standards for Participation

A. The facility shall be currently enrolled to provide nursing facility services to provide the level of care designation for the treatment of methicillin-resistant staphylococcus aureus.

B. The facility shall sign the addendum to the Provider Agreement for participation in the NF—Infectious Disease (MRSA) level of care designation.

V. The following medical certification requirements must be met in addition to the Forms 90L and 148.

A. The facility data submission shall follow the guidelines published for the levels of care.

B. The following additional information requirements must be met:

1. date of onset of MRSA infection;
2. physicians' orders (specific to each patient's care relating to MRSA infection);
3. request for a change in level of care to provide treatment for MRSA;
4. laboratory reports verifying the diagnosis of infectious MRSA as opposed to a colonized diagnosis;
5. documentation (including physicians' progress notes, nursing assessments and nurses' notes) of clinical signs and symptoms of an active infectious process;
6. detailed description, including measurements, of the lesions on tissue involvement;
7. documentation that appropriate isolation procedures were carried out (description) from date of the level of care request.

VI. Reimbursement Requirements

A. The level of care change request must be approved.

B. Request for changes in the patient's level of care from the infectious MRSA level to the former level of care must be completed promptly.

C. The infectious disease reimbursement rate is not applicable to patients who are colonized or free of active infection or if the patient refuses treatment, and/or the attending physician refuses to initiate appropriate vancomycin IV therapy.

D. The infectious disease reimbursement rate will be paid during the hospital stay.

Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this Emergency Rule and current policy will remain in effect.

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

A notice of intent is being referenced in this December 20, 1992, issue of the *Louisiana Register* relative to this Emergency Rule. A public hearing associated with the notice of intent will be held in the Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. on January 29, 1993. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

Food Stamp Program

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to readopt LAC 67:III.Subpart 3 effective January 1, 1993 in the Food Stamp Program.

Emergency rulemaking was necessary to establish the emergency food assistance program for victims of disaster in Louisiana. This second declaration is required because the first emergency rule will expire before a final rule becomes effective. This Emergency Rule may be viewed in its entirety in the September 1992 edition of the *Louisiana Register*.

Gloria Bryant-Banks
Secretary

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Individual and Family Grant Program

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to readopt LAC 67:III.6501 and 6502 effective January 1, 1993 in the Individual and Family Grant (IFG) Program.

Emergency rulemaking was necessary to amend the maximum grant amount and the flood insurance amounts in the Individual and Family Grant Program. This second declaration is required because the first emergency rule will expire before the final rule becomes effective. This Emergency Rule may be viewed in its entirety in the September 1992 edition of the *Louisiana Register*.

Gloria Bryant-Banks
Secretary

DECLARATION OF EMERGENCY

Department of State Office of the Secretary

Election of a Classified State Employee to the Civil Service Commission

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of State, Office of the Secretary of State has adopted emergency revisions to the rules affecting the election of the employee member of the State Civil Service Commission.

The purpose of this declaration of emergency, effective January 1, 1993 for 120 days, is to provide for revisions to the rules affecting the election of the employee member of the State Civil Service Commission in time for the call for the election, which is to go out in the first week of January, 1993.

Title 52

Public Officials and Employees

Part 1. Civil Service

Chapter 1. Election

§101. Election of Employee Member of the State Civil Service Commission

A. Qualifications; Term of Office

1. The classified employee member of the State Civil Service Commission shall serve a term of six years unless serving to fill the unexpired term of a vacancy.

2. The classified employee eligible to fill an unexpired term will take office after notification of a vacancy by the director of Civil Service to the secretary of State and upon certification by the secretary of State, and that employee will serve until a new regular election is conducted to elect a successor.

B. Call for Election

1. The director of State Civil Service shall post on the date it is issued the call for election on the bulletin board at the office of the director of State Civil Service. It shall remain posted until the final day for qualification as a candidate has passed. A copy of the call shall be delivered to the secretary of State for publication in the official state journal.

C. Nominations

1. Candidates for election to the office of Classified Employee Member of the State Civil Service Commission must include on the nomination petition their name as it is to appear on the ballot, their position classification, the department, agency, board or commission at which employed, their home address, and their social security number.

2. The nominating petition shall include the signature, printed name, social security number, and the department, agency, board or commission of each employee signing the petition.

3. The director of Civil Service, or his designated representative, shall examine the nominating petition of each candidate on receipt, determine whether the person nominated is eligible or ineligible and that the petition is valid or invalid on its face, and so notify the candidate of his decision within 24 hours of the receipt of the petition by mailing such notification to the candidate's home address.

4. A candidate may withdraw his name from nomination by notifying the director of Civil Service in writing prior to the end of the qualifying period.

D. Conduct of Election

1. All eligible candidates shall have their names listed on the ballot in alphabetical order of their last name, exactly as it appears on the nominating petition. A number, in consecutive order, shall be assigned to each candidate in the order listed on the ballot.

2. Ballots will contain the final date on which the ballots must be received by the director of State Civil Service in order to be counted in the election.

3. Ballots shall be delivered to each appointing authority or its designee(s) for further immediate delivery to employees.

4. Ballot envelopes received by the director of State Civil Service will be examined by the ballot oversight committee to be accepted or rejected as provided by law by majority vote of the committee.

5. Accepted unopened ballot envelopes will be placed in specifically provided ballot boxes for opening at the designated time and place for counting of ballots.

6. Rejected unopened ballot envelopes shall be grouped together and retained separately in specifically provided ballot boxes.

7. Ballots that are rejected for cause after removal from the sealed ballot envelope by majority vote of the ballot oversight committee will be grouped together and retained separately from the counted ballots.

8. All ballots, accepted and rejected, and the unopened but rejected ballot envelopes will be retained by the director of State Civil Service in the specially provided ballot boxes together with all tally sheets and other working papers for 30 days following the promulgation of the results of the election by the secretary

of State and will then be destroyed unless otherwise ordered by appropriate authority.

9. Ballots may be returned to the director within the time required by law either by the voting employee in person or by someone acting on his behalf, or via U. S. Mail delivered to the director within the time required by law.

E. Report of Results

1. The ballot oversight committee shall examine each ballot and record the vote for each ballot and record the vote for each candidate. The results of their count shall be certified to the director of State Civil Service who shall cause a report of the results to be prepared and submitted to the secretary of State. The director shall also notify the Civil Service Commission and each of the candidates of the fact that the election has been completed and that the results thereof have been certified to the secretary of State.

2. A copy of the report shall be posted on the bulletin board at the Office of the director of State Civil Service for five consecutive working days following submission of the report to the secretary of State.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1357 B.

HISTORICAL NOTE: Promulgated by the Department of State, LR 16:734 (December 1980), amended LR 19:

Persons interested in making comments relative to these proposals may do so by writing to the Office of the Secretary of State, Box 94125. Baton Rouge, LA 70804-9125.

W. Fox McKeithen
Secretary of State

DECLARATION OF EMERGENCY

**Department of Treasury
Board of Trustees of the State Employees Group Benefits
Program**

Plan Document Revisions

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:953(B), notice is hereby given that the Board of Trustees of the State Employees Group Benefits Program has adopted the following changes to the Plan Document as an emergency rule, effective November 12, 1992.

Failure to adopt this rule will increase the expenditure of state funds for payment of medical benefits and will result in a delay in payment of hospital claims thereby placing an undue hardship on employees of state government and participating school boards and state political subdivisions, and the dependents of such employees, who are covered by the State Employees Group Benefits Program. This Emergency Rule will remain in effect for 120 days.

The Board of Trustees, State Employees Group Benefits Program Plan Document is amended as follows:

Amend the definition of Room and Board, Article 1, Section I(S) as follows:

* * *

Room and Board—subject to the exclusionary provisions of this contract, a hospital's daily charges for room and board or the per-diem rate charged by a hospital owned and operated by one of the 50 states. Room and board charges shall consist of all hospital expenses necessary to maintain and sustain a covered person during a confinement, including but not limited to facility charges for the maintenance of the covered person's hospital room, dietary and food services, nursing services performed by nurses employed by or under contract with the hospital and housekeeping services.

* * *

Amend the provisions of Article 3, Section I(F)(14) as follows:

The following shall be considered eligible expenses, subject to applicable limitations of the fee schedule, under comprehensive medical benefits when prescribed by a physician and medically necessary for the treatment of a covered person;

* * *

14. services of a private-duty registered nurse (R.N.) and of a private-duty licensed practical nurse (L.P.N.) duly licensed under the laws of the state where the services were rendered, when medically necessary and prescribed by a licensed medical doctor, provided the nurse(s) are not related to the covered person by blood, marriage or adoption, and provided the services are rendered in a hospital, as defined in Article 1, Section I (R). Routine nursing services, i.e. "floor nursing" services, provided by nurses employed by or under contract with a hospital shall be considered a part of room and board charges and paid accordingly. Services of an R.N. or L.P.N. which are being provided to a covered person on July 1, 1985, in a non-hospital treatment setting shall constitute an eligible expense until no longer certified as medically necessary by the attending medical doctor;

* * *

Amend the provisions of Article 3, Section V(B)(4), relating to Supplemental Emergency Accident Benefits, as follows:

B. Covered expenses shall include:

* * *

4. services of a private-duty registered nurse (R.N.) and of a private-duty licensed practical nurse (L.P.N.) duly licensed under the laws of the state where the services were rendered, when medically necessary and prescribed by a licensed medical doctor, provided the nurse(s) are not related to the covered person by blood, marriage or adoption, and provided the services are rendered in a hospital, as defined in Article 1, Section I (R). Routine nursing services, i.e. "floor nursing" services, provided by nurses employed by or under contract with a hospital shall be considered a part of room and board charges and paid accordingly;

* * *

Amend the provisions of Article 3, Section VII(E)(1)(b), relative to the Catastrophic Illness Endorsement, as follows:

1. When a covered person receives care and treatment in a hospital for any of the diseases indicated above, and such care and treatment are rendered at the direction of a licensed medical doctor while this coverage is in force as to such person, the program will pay the eligible expense actually incurred for any

of the following listed services, but not to exceed the maximum amount payable per benefit period specified in the schedule of benefits:

* * *

b. services of a private-duty registered nurse (R.N.) and of a private-duty licensed practical nurse (L.P.N.) duly licensed under the laws of the state where the services were rendered, when medically necessary and prescribed by a licensed medical doctor, provided the nurse(s) are not related to the covered person by blood, marriage or adoption. Such services shall be payable only when rendered in a hospital, as defined in Article 1, Section I(R). Routine nursing services, i.e. "floor nursing" services, provided by nurses employed by or under contract with a hospital shall be considered a part of room and board charges and paid accordingly;

* * *

James R. Plaisance
Executive Director

DECLARATION OF EMERGENCY

Department of Treasury
Board of Trustees of the State Employees' Retirement
System

Disability Applications

The Board of Trustees of the Louisiana State Employees' Retirement System, at its meeting on November 17, 1992, adopted the following emergency rule concerning procedures for processing disability applications. The notice of intent to adopt the following rule under the Administrative Procedure Act is scheduled to be published in the January 20, 1993, edition of the *Louisiana Register*.

Procedures for Processing Disability Applications

1. Receive application for disability retirement:
 - a. make sure applicant is eligible;
 - b. review application (Form ER-3) for completeness;
 - c. review examining physician's report for completeness and to ensure that he recommends disability retirement;
 - d. review disability report by immediate supervisor and report by human resource administrator (Form ER-3A) for completeness.

If applicant is not eligible, they will be notified immediately by letter. If the application or any of the required forms are incomplete or missing, return them to the appropriate person for completion.

2. Determine type of disability and the appropriate disability board doctor for the examination:
 - a. if the condition is terminal, forward medical records to the doctor for review and recommendation;
 - b. if the condition is not terminal, contact the appropriate doctor to schedule an appointment. Notify the applicant of the appointment date and time in writing.
3. Receive the written recommendation from the doctor:
 - a. review the doctor's recommendation and determine if

the application should be approved, disapproved or deferred. Approved applications will be unconditional or for a specified time period based on the individual situation. In all cases, the recommendation of the doctor will determine if the application is approved or disapproved. If the doctor's recommendation is unclear, the file will be forwarded to the retirement benefits manager for review;

b. if the retirement benefits manager cannot make a clear determination, the assistant director, retirement benefits manager and retirement benefits supervisor will meet to discuss the case and make a determination. The doctor will be contacted for clarification or another doctor will be consulted when necessary;

c. any unusual cases will be presented to the board for their review and determination.

4. When the final determination is made, the applicant will be notified in writing and a copy will be forwarded to the agency.

5. The approved applicants will be listed on the monthly retirement supplement which is presented to the board for approval.

6. Twice annually, in June and December, the board will receive a summary report of the number of applications received, the number approved, the number disapproved, a summary of the types of disabilities, the average age of approved applicants, the average number of years of state service, and the agencies of the applicants.

Thomas D. Burbank, Jr.
Executive Director

DECLARATION OF EMERGENCY

Department of Treasury
Bond Commission

Line of Credit

The Louisiana State Bond Commission amended the commission's rule on November 19, 1992 as originally adopted on November 20, 1976.

The commission amended Rule No. 15 of the original commission rules and increased the maximum amount of authorized lines of credit as follows:

15. Line of Credit - a 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 which may be authorized by the commission shall be \$125,000,000. 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.

This Emergency Rule is necessary to ensure continued construction and funding of all projects heretofore begun and contained in Priority 1 of the current Capital Outlay Act, Act 1137 of the 1992 Regular Session of the Louisiana Legislature. This rule is effective immediately and will remain in effect for 120 days.

Rae W. Logan
Director

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Fall Inshore White Shrimp Season Closure

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act; R.S. 49:967 which allows the Wildlife and Fisheries Commission and the secretary to use emergency procedures to set shrimp seasons; R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and the authority granted to the secretary of the Department of Wildlife and Fisheries by the Wildlife and Fisheries Commission, the secretary of the Department of

Wildlife and Fisheries adopts the following emergency rule relative to shrimp season:

The fall inshore white shrimp season in all inshore state waters will close at 12:01 a.m., December 21, 1992.

The secretary finds that water temperatures in the inshore areas of coastal Louisiana are such that growth will be greatly depressed and white shrimp in inshore waters will not meet the 100 count per pound legal size which will be reinstated on the third Monday in December as provided in R.S. 56:498(B)(1).

Joe L. Herring
Secretary

RULES

RULE

Department of Agriculture and Forestry
Office of Animal Health Service
Livestock Sanitary Board

Dead Poultry Disposal (LAC 7:XXI.11771)

Under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Livestock Sanitary Board, in accordance with the authority granted under R.S. 3:2095 has amended the following rule governing the diseases of animals.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter D. Poultry

§11771. Governing the Sanitary Disposal of Dead Poultry

* * *

B. Approved Methods

* * *

1.a. Effective January 1, 1993, no disposal pits will be approved.

b. Disposal pits that are currently in use will be allowed to operate until January 1, 1995.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 17:874 (September 1991), LR 18: (December 1992).

Maxwell Lea, Jr.
State Veterinarian

RULE

Department of Culture, Recreation and Tourism Office of the State Library of Louisiana

Public Library Construction and Technological Enhancement (LAC 25:VII.Chapter 21)

In accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., notice is hereby given that the Office of the State Library of Louisiana revised the following rules and regulations. The changes will have no economic impact on the budget of the state, nor are fees involved. The revisions and changes herein refer to rules published in:

Title 25

CULTURAL RESOURCES

Part VII. State Library of Louisiana

Subpart 3. Library Development

Chapter 21. Public Library Construction

§2101. Administration

The State Library of Louisiana administers the federal Library Services and Construction Act (Public Law 98-480) which provides under Title II, funds for public library construction. The purpose of the act is to assist parishes in providing public library facilities in areas without library facilities or with inadequate library facilities.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Filed by the State Library of Louisiana at the Office of the State Register, December 11, 1974, amended LR 18: (December 1992).

§2103. Definition

Public Library construction is defined as the construction of new public library buildings and the expansion, remodeling, alteration, and technological enhancement of existing buildings to be used as public libraries, and the initial equipment of any such buildings (but not books), including architect's fees and the cost of the acquisition of land.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Filed by the State Library of Louisiana at the Office of the State Register, December 11, 1974, amended LR 18: (December 1992).

§2105. Rules Governing Administration of the Act

For the administration of the act the following state rules are applicable:

A. The public library applying must be a part of a parish or regional library except where there is evidence of a cooperative arrangement between the municipal library and the parish library operating under the laws governing parish and municipal libraries (R.S.25:211) or the Local Services Act (R.S. 33:1324).

B. A written building program, the site, the preliminary drawings and specifications, and final plans and specifications for the building and equipment must be approved by the State Library of Louisiana.

C. The facility must meet standards as set forth in Standards for Public Libraries in Louisiana (1987).

D. The building must be open a minimum of 40 hours a week and all services must be available to all persons without discrimination.

E. A public library facility to be attached to another building or built as a part of a building must be treated as a separate unit in terms of service, space, and costs. All documents including contracts must clearly indicate the cost of the portion of the building to be used for public library services purposes only. The section of the building to be used for public library purposes must have a direct outside entrance.

F. The decision to expand or remodel an existing building must be based upon a feasibility study and thorough examination of the existing structure by a registered architect and/or licensed engineer.

G. The parish, municipal corporation, or the parish municipality must provide 50 percent or more of the cost from local funds.

H. Local matching funds must be public funds for library construction and on deposit with the parish, the municipal corporation, or the parish municipality. Separate financial records must be maintained for the building project.

I. All applicable regulations of the Public Contract, Work and Improvements Law, Louisiana Revised Statutes 38:2211 et seq. must be adhered to for the library construction.

J. As soon as the construction contract is signed one complete copy must be sent to the State Library of Louisiana.

K. The State Library of Louisiana will provide limited consultative services for the librarian, members of the Board of Control, and architect in the planning for and construction of public library buildings. If the State Library of Louisiana considers an outside building consultant necessary, the State Library of Louisiana upon request of the Library Board will suggest names of qualified building consultants.

L. All equipment must be purchased on the basis of awards to the lowest qualified bidder on the basis of open competitive bidding, and according to state and local laws and regulations.

M. The applicant must send to the State Library of Louisiana the final fiscal report and the final fiscal audit of the project.

N. The applicant shall notify the State Library of Louisiana that the project has been completed according to the application.

O. The facility must display in a prominent place the "International Symbol of Access for the Handicapped".

P. In developing plans for public library construction local and state codes with regard to fire and safety must be observed.

Q. The State Library of Louisiana or its representative must have access to all records and documents which are required to be retained by the applicant.

R. The State Library of Louisiana will apply the following priorities in making building construction grants:

1. building for library serving as center for library system;
2. building for library in parish in which the average family income is less than the median family income in Louisiana;

3. building for library in parish which has not received prior grant under Title II of the Library Services and Construction Act.

S. The State Library of Louisiana will apply the following priorities in making grants for technological enhancements:

1. technology for library which will impact statewide or regional library services and resource sharing;
2. technology for library which will impact parish wide library services;
3. technology for library which will assist individual libraries with needed services;
4. technology for library in parish in which the average family income is less than the median family income in Louisiana;
5. technology for library in parish which has not received prior grant under Title II of the Library Services and Construction Act.

T. All requirements being met and conditions on which priorities are established being equal, the State Library of Louisiana will make grants in order that applications are approved and local funds are available.

U. Architect and applicant must conform to terms and conditions as set by AIA Document B151, Standard Form of Agreement Between Owner and Architect.

V. Public library construction projects must follow local and federal regulations guiding urban development, environmental impact and protection, and intergovernmental cooperation currently in force.

W. Public library construction projects must conform with local and federal rules and regulations on financial assistance for construction currently in force by the various levels of government.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Filed by the State Library of Louisiana at the Office of the State Register, December 11, 1974, amended LR 18: (December 1992).

Mark Hilzim
Secretary

RULE

Department of Economic Development Louisiana Economic Development Corporation

BIDCO Investment Program (LAC 19:X.Chapter 1)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Economic Development Corporation (LEDC) hereby adopts the following rule regarding the Business and Industry Development Corporation (BIDCO).

Title 19

CORPORATIONS AND BUSINESS

Part X. Louisiana Economic Development Corporation

Chapter 1. BIDCO Investment and Co-Investment Program

§101. Purpose

A. The purpose of the Business and Industry Development Corporation (BIDCO) Investment Program is to foster the growth of this new financial entity in Louisiana, designed to help meet the financing and management assistance needs of

business firms in this state by filling the mezzanine financing gap between conventional bank financing and venture capital financing. A BIDCO is not a depository financial institution and is not intended to compete with traditional financial institutions for business or commercial loans.

B. Louisiana Economic Development Corporation (LEDC) believes that investments in and with BIDCOs are consistent with fulfilling its statutory responsibilities in a manner that provides opportunities for capital formation in support of business while receiving adequate investment return at relatively low to moderate risk. LEDC recognizes that obtaining capital for new investment concepts, such as a BIDCO, can prove difficult. It also recognizes, that to be effective, a BIDCO must attain a level of funding adequate to provide for a continuing series of investments over time which generate sufficient cash flow to provide for overhead expenses appropriate to effectively manage the risks associated with BIDCO investments.

C. To foster the growth of BIDCOs, LEDC is prepared to make matching equity capital investments or co-investments in BIDCOs for purposes of facilitating the orderly growth of capital in the BIDCO, so that they may attain the size and results adequate for sustained performance without further participation by LEDC. The ability of the BIDCO to raise capital from private equity sources during its formative stage will be enhanced by LEDC participation.

D. A major objective of LEDC is to leverage the impact of its resources through the funds that it invests in BIDCOs. In addition to stimulating private capital investments, additional leveraging is anticipated through BIDCO borrowing on its expanded capital base or by its selling the guaranteed portions of SBA guaranteed loans. Ultimately it is the objective of LEDC to sell its stock in a BIDCO at a profit, notwithstanding its willingness to provide discounted buy-out opportunities to the BIDCO or its private investors, leaving behind an ongoing, permanent institution operating without any direct LEDC ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 18: (December 1992).

§103. Definitions

A. *BIDCO*—a Louisiana business and industrial development corporation licensed by the Louisiana Office of Financial Institutions (OFI) with its business consisting of providing non-traditional capital and/or debt funding for qualified Louisiana businesses.

B. *Qualified Louisiana Business*—any enterprise with its primary operations in Louisiana, or with substantially all of its production in Louisiana, and which has no more than 500 employees and has annual business receipts not in excess of \$7,000,000.

C. Definitions of other terms used herein are provided in the legislation which is reflected in Chapter 39-A of Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S.51:2386 through 2398.

D. Private capital is paid in cash capital from non-LEDC sources, available for investment in assets of the BIDCO. These non-LEDC sources may include other non-state governmental

sources (e.g., municipalities, parishes) provided the non-state governmental capital funds do not exceed 50 percent of the private capital, and provided the non-state governmental capital funds are not directly or indirectly derived from state sources. For purposes of calculating the eligibility of a request for matching equity capital, components other than paid in cash capital will be considered. Future capital commitments payable over the next five years will be discounted to present value using an annual interest factor of 10 percent. If funding of operating expenses for at least 36 months is committed from sources other than the financial performance of the investment portfolio or paid in capital, the future value of those payments compounded at 10 percent annually will be similarly considered.

E. Specialty BIDCO is defined as one or more of the following:

1. providing more than 50 percent of its financial assistance portfolio to minority, women, disabled-owned businesses;
2. providing more than 50 percent of its financial assistance portfolio to economically certified rural or urban distressed areas.
3. non-profit corporations providing more than 50 percent of its financial assistance portfolio to minority, women, disabled-owned, or in distressed areas;
4. fifty-one percent owned and controlled in day-to-day operations by women, minorities or disabled individuals.

F. Seed Investor is an investor in the start-up stages of the BIDCO, prior to certification by OFI and LEDC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 18: (December 1992).

§105. LEDC Application Process

A. LEDC will accept applications from BIDCOs for LEDC certification on a continuing basis. To apply to LEDC a BIDCO must be incorporated in Louisiana, certified by the State of Louisiana Office of Financial Institutions, submit the information outlined in §113 with an application fee of \$500. LEDC will favorably certify the BIDCO based upon its assessment of the proposed business plan, adequacy and experience of ownership and management, and its sources of funding. Once LEDC approves the BIDCO, it will contribute to the future funding of the BIDCO as outlined in §111.

B. LEDC will process applications for a matching equity capital investment or when an application is presented for a co-investment as follows:

1. Applications for each type of application will be processed in time date order received.
2. LEDC staff will conduct an initial screening of the application for completeness in accordance with §113.
3. An incomplete application for initial certification will be returned to the submitter. A previously incomplete application may be resubmitted, which will establish a new time and date received for that application.
4. An incomplete application not resubmitted within 30 days will forfeit the application fee.
5. LEDC staff will begin the evaluation process of initial

certification, matching equity capital requests and project co-investment requests within applications within 30 days of receipt by entering into a dialogue with the applicant that leads to submission for approval by the board of LEDC.

C. Information submitted with the application either for a match investment or co-investment 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. However, in the event of a BIDCO's licensure surrender, dissolution, bankruptcy, or other indication of insolvency previously confidential information shall be disclosable under the Public Records Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 18: (December 1992).

§107. Eligibility for Submission of an Application

In order to be eligible for consideration of initial certification or to receive a matching equity capital investment by LEDC, the applicant must fulfill the following eligibility requirements:

1. It must have obtained a license from OFI or have received preliminary approval from OFI for issuance of a license.

2. It must be a Louisiana corporation.

3. In order to be eligible for a conditional or final approval to receive an investment from LEDC, as described in §109, it must have raised a minimum of \$1,000,000 of private capital, exclusive of LEDC funds, unless the minimum-capital requirement is reduced by OFI pursuant to the BIDCO Act. These private capital funds may be either committed or actual cash contributions, as defined in §103. Final approval will be granted only upon proof of actual cash or cash equivalent contributions [pursuant to R.S. 51:2392 (B)(2)(d)(2)].

D. Its management must be experienced in debt and/or capital financing of the types and volume contemplated by the applicant BIDCO.

E. LEDC may consider applications from BIDCOs which have a businesslike mission but with special circumstances or specialized opportunities (herein "Specialty BIDCOs").

F. Owners and investors cannot be in conflict with the Code of Governmental Ethics, R.S. 42:1112. BIDCOs shall not invest in a company in which a principal or officer of the BIDCO also has an interest in the company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 18: (December 1992).

§109. Amount of Investment

A. If a non-specialty BIDCO can show cash or commitment capital contributions, as defined in §103 of at least \$1,000,000 but less than \$2,000,000, LEDC may co-invest \$1 for each \$2 for each LEDC-approved project submitted to it by the BIDCO. The LEDC investment will participate pro rata with the BIDCO share of the investment. The LEDC investment will

not exceed 33 percent of any project nor will LEDC funding exceed \$1 for each \$2 of other BIDCO capital committed. On each project submitted for review, an application fee of \$250 is required.

B. If a specialty BIDCO can show cash or commitment capital contributions, as defined in §103 of at least \$250,000 but less than \$1,000,000, LEDC may co-invest \$1 for each \$1 for each LEDC-approved project submitted to it by the BIDCO. The LEDC investment will participate pro rata with the BIDCO share of the investment. The LEDC investment will not exceed 50 percent of any project nor will LEDC funding exceed \$1 for each \$1 of other BIDCO capital committed. On each project submitted for review, an application fee of \$250 is required.

C. If a non-specialty BIDCO can show cash and commitment capital contributions, as defined in §103, of \$2,000,000, exclusive of any previous investments by LEDC, the BIDCO may request a matching equity capital contribution from LEDC. Each request should be accompanied by a \$500 application fee. If the BIDCO is considered an acceptable risk, based upon LEDC review of its credentials, performance, and business plan, or some combination thereof, LEDC will make a matching cash contribution on the basis of \$1 for each \$2 of the BIDCO capital not to exceed \$2,500,000, reduced for any previous LEDC capital contributions. LEDC will base its matching equity capital contribution on the amount of capital as calculated in accordance with §103.D. Thereafter it will participate in all future BIDCO investments on a pro rata basis with all other BIDCO funds. Any company in which any BIDCO with LEDC matching cash capital contributions has invested funds will be ineligible for any other LEDC program or investment. Request for matching capital matches may not occur within 12 months of any previously approved request.

D. If a specialty BIDCO can show cash and commitment capital contributions, as defined in §103, of \$1,000,000, exclusive of any previous investments by LEDC, the BIDCO may request a matching equity capital contribution from LEDC. Each request should be accompanied by a \$500 application fee. If the BIDCO is considered an acceptable risk, based upon LEDC review of its credentials, performance, and business plan, or some combination thereof, LEDC will make a matching cash contribution on the basis of \$1 for each \$1 of the BIDCO capital not to exceed \$2,500,000, reduced for any previous LEDC capital contributions. LEDC will base its matching equity capital contribution on the amount of capital as calculated in accordance with §103.D. Thereafter it will participate in all future BIDCO investments on a pro rata basis with all other BIDCO funds. Any company in which any BIDCO with LEDC matching cash capital contributions has invested funds will be ineligible for any other LEDC program or investment. Request for matching capital matches may not occur within 12 months of any previously approved request.

E. All funding of BIDCOs is subject to the availability of resources as allocated by the LEDC Board of Directors.

F. The consolidated dollar total of all LEDC investments authorized under §109.A through D. shall not exceed \$2,500,000 to any one BIDCO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 18: (December 1992).

§111. Terms of Investment

A. Founders stock and or investment given in exchange for services shall be subordinate to LEDC's investment unless LEDC determines that the pricing of such founders investment and/or stock is commensurate with the services performed or risks taken, in comparison with the pricing of LEDC investment.

B. LEDC will hold one advisory seat on the Board of Directors of the BIDCO as long as LEDC owns stock in the BIDCO. This advisory seat shall be filled by LEDC's President or his/her designee. If a designee is to be used, the president shall nominate at least two people and present the nominations to the full board for selection. The non-voting stock will convert to voting stock when LEDC sells its interest.

C. LEDC's stock may be repurchased by the BIDCO or, secondarily, by its private-capital stockholders at the end of the fifth year or each subsequent annual operating period for a discounted amount of LEDC's then-current book value or market value, whichever is higher, subject to LEDC's concurrence on the valuation methodology. The BIDCO or its private-capital investors can experience an appreciation in their investment commensurate with the amount of discount granted by LEDC in the sale of its stock back to the BIDCO or its shareholders. The discount at the end of five years or annually thereafter, is:

	Discount	LEDC Receives
End of Five Years	25%	75%
Sixth Year	20%	80%
Seventh Year	15%	85%
Eighth Year	10%	90%
Ninth Year and Beyond	5%	95%

This scenario provides greater incentives for the BIDCO/shareholders to repurchase LEDC's interest earlier than later, but retains incentive for the buy-out beyond the ninth year. See Exhibit 1 for an example of the buy-out scenarios. This provision is not applicable to non-profit BIDCOs.

D. Specialty BIDCO Subordination. LEDC may subordinate its stock position in case the Specialty BIDCO is liquidated. The subordination will be administered in the following way:

1. LEDC may be subordinate up to 80 percent of the total private capital so long as the Specialty BIDCO is not a Certified Capital Company as designated by the Department of Economic Development.

2. LEDC may be subordinate up to 60 percent of the total private capital excluding all investors eligible for income or premium tax credits so long as it is designated a Certified Capital Company by the Department of Economic Development.

3. In the event LEDC sells its stock, the stock converts to a non-subordinated class of stock.

4. Subordination of LEDC stock precludes the use of the discounted buy back provision D.

5. Subordination of LEDC stock is not applicable to non-profit BIDCOs.

E. LEDC may negotiate additional operating requirements with individual applicant BIDCOs on a case-by-case basis, as needed to safeguard the quality of LEDC's investment or to promote achievement of the objectives of the program or LEDC.

F. Agreement executed by duly authorized persons outlining the details of the transaction.

G. The LEDC's funding under its commitment will be made on a quarterly basis subject to verification of private-capital funds received by the BIDCO.

H. Capital match investments in a non-profit BIDCO will be in the form of a debenture with terms and rates to be negotiated consistent with the BIDCO's business plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 18: (December 1992).

§113. Application Requirements

To apply for certification for LEDC to invest, a BIDCO shall submit to LEDC evidence of its OFI approval or preliminary approval. The applicant must desirably submit to LEDC information in the sequence outlined below. The applicant may provide other information which it believes relevant. LEDC may request further information beyond what is specified below:

1. Summary Section for Initial Submission and Equity Capital Matching:

a. name of BIDCO, address (mailing and physical);
b. specify the amount of LEDC investment/commitment requested;

c. specify the minimum and maximum amounts of non-LEDC capital to be raised if the LEDC makes the requested investment/commitment;

d. specify applicant's projected timetable, with milestones for completion of the fund raising;

e. specify whether applicant anticipates taking in all of the committed capital investment at closing, or whether applicant plans a phase in. If a phase-in is planned, specify the proposed schedule. It is permissible to have different scenarios based on the actual amount of capital raised.

f. market: identify the proposed market of the applicant.

i. describe and discuss the types of businesses that the BIDCO will finance; discuss the extent to which the BIDCO intends to specialize in certain industries, or if special circumstances will be addressed;

ii. describe the size range of businesses that it is contemplated the BIDCO will finance, with a general indication of where most of the focus is expected;

iii. discuss the life cycle stage or stages of the companies which the BIDCO will likely finance, with an indication of where most of the focus is contemplated, i.e., start-up, expansion.

iv. discuss the geographic area in which the BIDCO plans to focus; specify the city or parish in which the BIDCO's principal office will be located, and discuss intentions, if any, to establish any additional offices.

g. management assistance: discuss the plans of the BIDCO to provide management and/or technical assistance to companies for which the BIDCO provides financing; discuss

the BIDCO's plans for monitoring its financing, and enforcing provisions of loan or investment agreements; discuss how the BIDCO plans to handle problem loans and investments.

h. idle funds: describe plans for the management of the idle funds of the BIDCO.

i. realization of returns by investors: discuss long term plans and strategies for providing a tangible return to the investors in the BIDCO including dividend policy, public markets, future mergers and acquisitions, etc.

j. tax and accounting issues: discuss relevant tax and accounting issues for the BIDCO.

k. submit business and professional references for all stockholders, members of the Board and corporate officers.

l. management structure: describe the proposed management structure for the BIDCO.

m. describe the proposed responsibilities of each of the members of the management team; if any of these people will not be full time, describe their other activities.

n. describe the responsibilities of any management position for which a person has not been identified.

o. specify any other key people including any advisors, consultants, attorneys and accountants, and submit resumes and/or descriptions of firms; LEDC reserves the right to perform general and criminal background checks on these key people.

p. identify all "principal shareholders" (i.e. owning directly or indirectly, or controlling directly or indirectly, 10 percent or more of the voting stock of the BIDCO), by name with specific ownership identified.

2. Detailed Business Plan Section for Initial Submission, Equity Capital Matching or Co-Investment

a. provide a market analysis that the applicant deems relevant.

b. marketing strategy: describe the BIDCO's plans and approach to marketing its services, including methods of identifying potential applicants for financing assistance.

c. screening process and evaluation criteria: discuss the anticipated number of business firms that will be reviewed for possible financing assistance, in comparison with the number that will actually be financed; discuss the approach to screening business firms, and the evaluation criteria for deciding whether, and under what terms and conditions, to provide financing assistance.

d. financing: describe and discuss the financing instruments that are intended to be used by the BIDCO (i.e., debt with capital features, royalty, capital, pure debt [with SBA or not], etc.); discuss the anticipated mix of the various types of financing instruments; discuss the anticipated size range of loans/investments to be made, and information regarding pricing, term, and other conditions; discuss risk/return expectations on projects; discuss methods of exit from investments.

e. specify applicant's start-up budget, including funds already expended and a detailed projected budget for completion of the fund raising; specify the person or persons who will be working on the start-up phase, including how much of their time they will spend, how, if at all, they will be compensated, and their resumes and references; list applicant's seed investors, if any, with amount invested and number of shares of stock

owned; specify any additional amount of seed capital applicant is seeking, including a discussion of possible sources.

f. describe and discuss the applicant's fund raising strategy for raising the private capital.

g. specify the principal investor sources that the applicant will be targeting.

h. attach all specific financing commitments already obtained, including documentation for each; this should include the evidence of the initial required capital.

i. describe specific demonstrations of interest from private investor sources, including documentation where possible.

j. capital structure—leverage: discuss the BIDCO's plans and prospects for leveraging its capital by borrowing money, use of the SBA guarantee secondary market, or other approaches; with respect to borrowing money, describe the degree of leverage the BIDCO will seek and over what time period; identify sources of debt financing the applicant plans to utilize; describe how the applicant plans to structure the debt; if use of the SBA program is contemplated, discuss applicant's approach to this activity and analyze its potential profitability; if applicant is relying heavily on the SBA guarantee program, describe its alternate course of action if the SBA guarantee program is eliminated or its effectiveness significantly curtailed.

k. financial projections: provide the following financial projections:

i. returns-on-average assets and returns-on-capital performance projections, year by year, for a 10 year period; these projections should show summary cash flow, summary income and expense (including taxes), and summary balance sheet data; for these performance projections, operating income and expenses can be grouped by category; specify the assumptions used for the performance projections.

ii. specify computer programs used for projections, if any, and specify formulas used.

l. fee income: discuss the potential for fee income, and any plans that the BIDCO might have for generating fee income.

m. complementary and affiliate relationships: discuss the nature of complementary or affiliate relationships that are anticipated with banks, commercial lenders, investment bankers, venture capitalist and other institutions; this discussion can be based on general types of institutions and should identify specific institutions where complementary or affiliate relationships have already been discussed or arranged.

3. Co-Investment Submission Requirements. Once certified, to apply for LEDC to co-invest in a project, the BIDCO should submit on behalf of the project the following information:

a. the proposed amount, terms, and conditions of the investment;

b. a business and funding plan for the recipient completed in accordance with the standards outlined in LEDC program material for all other LEDC programs;

c. identify all "principal shareholders" (i.e. owning directly or indirectly, or controlling directly or indirectly, 10 percent or more of the voting stock of the BIDCO), by name with specific ownership identified;

d. the recipient must have its primary operating activities located in Louisiana, and the application of the funding must

result in meaningful economic impact to the area of Louisiana where its activities are conducted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 18: (December 1992).

§115. Operating Requirements

During the period when LEDC owns an investment in a BIDCO, the BIDCO shall operate in accordance with the following parameters:

1. The BIDCO shall provide financing assistance to qualified Louisiana businesses or to firms who will become qualified Louisiana businesses as a result of the funding by the BIDCO. If the business firm has multi-state operations, the criterion that shall be used by the BIDCO is whether or not Louisiana is the state where the primary economic benefit of the financing transaction is likely to occur. The BIDCO shall refrain from purchasing corporate stocks or other capital positions unless such investments are part of the BIDCO's funding plan for the qualified Louisiana business entity.

2. The BIDCO shall maintain as its primary focus the markets which it identifies in its initial business plan.

3. The BIDCO shall invest in or lend to qualified Louisiana businesses an amount at least equal to the sum of LEDC's funds plus the matching private-capital funds. For examples:

a. if LEDC invests \$2.5 million to match \$5 million of private capital funds, the BIDCO shall invest in or lend to qualified Louisiana businesses a minimum of \$7.5 million of its total portfolio exclusive of operating expenses and minimum capital reserve requirements as set out by the Office of Financial Institutions.

b. If LEDC invests \$1 million to \$2 million of private capital, the BIDCO shall invest/lend to qualified Louisiana businesses a minimum of \$3 million of its total portfolio exclusive of operating expenses and minimum capital reserve requirements as set out by the Office of Financial Institutions (OFI).

4. Without the consent of LEDC, the BIDCO shall not apply to OFI to surrender its license, provided, however, that if LEDC is not a stockholder no consent of LEDC is necessary. If LEDC grants its consent for such license-surrender application, the application shall state the commitment of the BIDCO to repurchase LEDC's stock at the time of license-surrender for its then-current book value or market value, whichever is greater, or, if discounted pursuant to these rules, for the agreed-upon discounted price. If OFI requires surrender of license, the BIDCO must immediately notify LEDC to review the future plans of operation.

5. LEDC may negotiate additional operating requirements or material changes in the business plan with individual applicant BIDCOs on a case by case basis, as needed to safeguard the quality of LEDC's investment or to promote achievement of the objectives of the program or LEDC.

6. Reporting requirements shall include the following:

a. annual audited financial statements in accordance with GAAP, quarterly financial statements, and minutes of all regular and special board meetings.

b. timely advice of all management and board member

changes with reasons for the changes and submission of new members' resumes showing experience and qualifications.

c. reports of activity including client businesses' names, addresses, employment levels before and after funding, and other information required for LEDC's annual legislative report.

d. the BIDCO shall provide LEDC with complete copies of OFI's annual audit report.

e. if the BIDCO is also a CAPCO, it must be in compliance with all CAPCO regulations

f. the BIDCO's officers shall provide LEDC annual certification that BIDCO investments are consistent with their business plan and that they are in compliance with the Code of Governmental Ethics, R.S. 42:1112 et seq.

7. The failure of a BIDCO to comply with these operating requirements will constitute violation of the premise(s) on which LEDC relied in making its investment and will be just cause for LEDC to demand and require that its investment be immediately repurchased in whole or in part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 18: December 1992).

Tracy Mandart, Jr.
Executive Director

RULE

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

Toxic Air Pollutants (AQ62)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2060 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Air Quality Regulations, LAC 33:III.Chapter 51, (AQ62).

This rule will expand the current list of toxic air pollutants to include all those compounds listed as hazardous air pollutants in the Federal Clean Air Act, §112. No emission control standards or ambient air standards are being proposed for these compounds. Other edits include corrections of typographical errors and internal references, as well as minor changes to improve clarity in the rule.

These regulations are effective on December 20, 1992, or upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter A. Applicability, Definitions, and General Provisions

§5101. Applicability

The provisions of this Subchapter apply to the owner or

operator of any major source, as defined herein.

Until the effective date of applicable minor source category rules, the provisions of LAC 33:III.5105.A, 5107, 5111.A.4, 5113, and 5115 apply to the owner or operator of any stationary source which was a major source upon promulgation of this Subchapter but which has achieved minor source status through reduction of emissions and reduction of potential to emit. Effective upon promulgation of applicable source category rules in accordance with R.S. 30:2060, the provisions of this Subchapter apply to the owner or operator of any minor source, if specified by such rules.

The provisions of this Subchapter do not apply to the consumer use, in a duration and frequency intended by the manufacturer, of products obtained through retail commerce, or to activities conducted on residential property. The provisions of this Subchapter do not apply to the distribution or application of pesticides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060, and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18: (December 1992).

§5103. Definitions, Units, and Abbreviations

* * *

Toxic Air Pollutant (TAP)—any substance listed in Table 51.2 or Table 51.3 of this Chapter. Toxic air pollutants are listed pursuant to R.S. 30:2060 and, except for lead, do not include those pollutants for which National Ambient Air Quality Standards have been established under Section 108 of the Federal Clean Air Act.

* * *

Wood Residue Fuel—any wood based fuel including, but not limited to, bark, chips, fines, knots, and lumber. Unless approved by the secretary, wood residue fuel shall not include wood based fuels that have been treated with preservatives or that are building boards, such as plywood, particleboard, flakeboard, and oriented strand board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18: (December 1992).

§5105. Prohibited Activities and Special Provisions

* * *

B. Special Provisions

* * *

7. No later than December 20, 1994, the administrative authority shall initiate a review of toxic air pollutants derived from the burning of wood residue fuel at pulp and paper mills. Emissions from the combustion of such fuel shall be regulated under this Subchapter if the administrative authority determines that such regulation is appropriate and necessary. Until the administrative authority makes a final determination, emissions from the combustion of wood residue fuel are exempt from the provisions of LAC 33:III.5109.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:2104 (December 1991), amended LR 18: (December 1992).

§5107. Reporting Requirements and Availability of Information

A. Annual Emissions Reporting

The owner or operator of any stationary source that emits any toxic air pollutant listed in Table 51.1 or Table 51.3 shall submit a completed annual emissions report to the administrative authority in a format specified by the department. The owner or operator shall identify on the emissions report the quantity of emissions in the previous calendar year for any such toxic air pollutant emitted.

1. **Initial Annual Emissions Report.** The owner or operator of any major source subject to the requirements in Subsection A of this Section shall submit the completed initial annual emissions report to the administrative authority within 180 days of December 20, 1991. The initial report shall identify the quantity of emissions of toxic air pollutants listed in Table 51.1 for the calendar year 1991.

2. **Subsequent Annual Emissions Reports.** After the initial annual emissions report, the owner or operator of any stationary source subject to the requirements in Subsection A of this Section shall submit a completed annual emissions report to the administrative authority on or before July 1 of each year. Each subsequent report shall identify the quantity of emissions of all toxic air pollutants listed in Table 51.1 or Table 51.3.

B. Discharge Reporting Requirements

* * *

2. Except as provided in Subsection B.5 of this Section, for any discharge into the atmosphere of a toxic air pollutant as a result of unauthorized bypassing of an emission control device, the owner or operator of the source from which the discharge occurs shall notify the department of the discharge by telephone immediately (but no later than three hours) after the beginning of the discharge.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18: (December 1992).

§5109. Emission Control and Reduction Requirements and Standards

* * *

C. Standard Operating Procedure Requirements

The owner or operator of any new or existing source required to report emissions in accordance with LAC 33:III.5107.A shall develop a standard operating procedure (SOP) within 120 days after achieving or demonstrating compliance with the standards specified in this Chapter. The SOP shall detail all operating procedures or parameters established by the owner or operator to ensure that compliance with the applicable standards is maintained and shall address, but not be limited to, operating procedures for any monitoring

system in place, specifying procedures to ensure compliance with LAC 33:III.5113.C.6. A written copy of the SOP must be available on site or at an alternate approved location for inspection by the administrative authority. A copy of the SOP must be provided within 30 days upon request by the department. The requirements of this Subsection do not apply to emissions of those pollutants listed in Table 51.3.

D. The following schedules for compliance will apply:

1. Submittal of any compliance plan or certification of compliance pursuant to Subsection A or B of this Section and pertaining to a major source which is a pulp and paper mill shall be no later than December 20, 1993. Submittal of any other compliance plan or certification of compliance pursuant to Subsection A or B of this Section shall be no later than December 20, 1992.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18: (December 1992).

§5111. Permit Requirements, Application, and Review

A. Major Source Permit Requirements

No owner or operator shall commence construction or modification of any major source without first obtaining written authorization from the administrative authority.

* * *

2. Before commencement of any modification not specified in a compliance plan submitted under LAC 33:III.5109.D, the owner or operator shall:

* * *

3. Before commencement of any modification specified in a compliance plan submitted pursuant to LAC 33:III.5109.D, the owner or operator shall obtain written authorization from the administrative authority. Concurrently with submittal of the compliance plan, the owner or operator of an existing source shall:

a. submit a letter indicating that the necessary permit modification (or new permit if no existing permit is in place) will be applied for by a date specified in the compliance schedule and requesting written authorization to construct; or

b. submit a permit application in accordance with Subsection B of this Section.

4. The owner or operator of any existing major source which is operating without a Louisiana Air Permit, or which is not fully permitted, at the time of promulgation of this Chapter, shall apply for a permit in accordance with Subsection B of this Section. For sources not required to submit a compliance plan pursuant to LAC 33:III.5109.D, the permit application shall be submitted no later than December 20, 1993.

* * *

C. Permit Review Process

* * *

4. For applications submitted pursuant to standards prescribed under LAC 33:III.5117, 5121, 5133, 5137, 5139, 5151, 5161, 5163, and 5171, the administrative authority will notify the owner or operator of approval or intention to deny approval of a permit for construction or modification within 60

ays after receiving sufficient information to evaluate an application under Subsection B of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 0:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18: December 1992).

§5113. Notification of Start-up, Testing, and Monitoring

B. Emission Tests and Waiver of Emission Tests

1. The department may require any owner or operator to conduct tests to determine the emission of toxic air pollutants from any source whenever the department has reason to believe that an emission in excess of those allowed by this Chapter is occurring. The department may specify testing methods to be used in accordance with good professional practice. The department may observe the testing. All tests shall be conducted by qualified personnel. The department shall be given a copy of the test results in writing signed by the person responsible for the tests within 45 days after completion of the test.

C. Monitoring Requirements

8. The owner or operator of any monitoring system shall maintain records of monitoring data, monitoring system calibration checks, and the occurrence and duration of any period during which the monitoring system is malfunctioning or inoperative. These records shall be maintained at the source, or at an alternate location approved by the administrative authority, for a minimum of three years and made available, upon request, for inspection by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18: (December 1992).

§5115. Modification of NESHAP Sources

Table 51.1 Minimum Emission Rates Toxic Air Pollutants CLASS I - Known and Probable Human Carcinogens

COMPOUNDS	CAS NO.	SYNONYMS	MINIMUM EMISSION RATE (POUNDS/YEAR)
ACRYLONITRILE	107-13-1		35.0
ARSENIC (AND COMPOUNDS) [1]	7440-38-2		25.0
ASBESTOS (FRIABLE)	1332-21-4		25.0
BENZENE	71-43-2	Benzol, Coal naphtha	260.0
BERYLLIUM [1]	7440-41-7	Glucinum	25.0
BIS (2-CHLOROETHYL) ETHER	111-44-4	Dichloroethyl ether	2,180.0
CADMIUM (AND COMPOUNDS) [1]	7440-43-9		25.0
CHROMIUM VI (AND COMPOUNDS) [1]	7440-47-3		25.0
1,2-DIBROMOETHANE	106-93-4	Ethylene bromide, Ethylene dibromide	25.0
EPICHLOROHYDRIN	106-89-8	2-Chloropropylene oxide	3,400.0
ETHYLENE OXIDE	75-21-8		35.0
FORMALDEHYDE	50-00-0	Methylene oxide	260.0
NICKEL (AND COMPOUNDS) [1]	7440-02-0		25.0
PROPYLENE OXIDE	75-56-9	Methyl ethylene oxide	700.0
VINYL CHLORIDE	75-01-4	Chloroethene, Monochloride ethylene	240.0

CLASS II - Suspected Human Carcinogens and Known or Suspected Human Reproductive Toxins

COMPOUNDS	CAS NO.	SYNONYMS	MINIMUM EMISSION RATE (POUNDS/YEAR)
ACETALDEHYDE	75-07-0	Acetic aldehyde	700.0
ACETONITRILE	75-05-8	Cyanomethane, Methyl cyanide	5,000.0
ACROLEIN	107-02-8	Acrylic aldehyde	25.0
ACRYLAMIDE	79-06-1	Acrylic amide	25.0
ALLYL CHLORIDE	107-05-1	3-chloropropene	25.0
ANILINE	62-53-3	Aminobenzene, Phenylamine	600.0
ANTIMONY (AND COMPOUNDS) [1]	7440-36-0		37.5
BARIUM (AND COMPOUNDS) [1]	7440-39-3		37.5
BIPHENYL	92-52-4	1,1-biphenyl, Xenene	97.5
1,3-BUTADIENE	106-99-0	Biethylene	25.0
CARBON DISULFIDE	75-15-0	Carbon bisulfide	2,400.0
CARBON TETRACHLORIDE	56-23-5	Tetrachloromethane	83.5
CHLORINATED DIBENZO-P-DIOXINS [2]	3168-87-9		0.0001
CHLORINATED DIBENZO FURANS [3]	51207-31-9		0.0001
CHLORINE DIOXIDE	10049-04-4	Chlorine peroxide	25.0
CHLOROBENZENE	108-90-7	Benzene chloride	25.0
CHLOROETHANE	75-00-3	Ethyl chloride	20,000.0
CHLOROFORM	67-66-3	Trichloromethane	69.5
CHLOROMETHANE	74-87-3	Methyl chloride	7,750.0
CHLOROPRENE	126-99-8		2,700.0
COPPER (AND COMPOUNDS) [1]	7440-50-8		25.0
DIAMINOTOLUENE	25376-45-8		250.0
DIBUTYL PHTHALATE	84-74-2	DBP	380.0
1,4-DICHLOROBENZENE	106-46-7	p-Dichlorobenzene	20,000.0
1,2-DICHLOROETHANE	107-06-2	Ethylene dichloride, EDC	48.5
DICHLOROMETHANE	75-09-2	Methylene chloride, DCM	540.0
1,2-DICLOROPROPANE	78-87-5	Propylene dichloride	20,000.0
1,3-DICHLOROPROPYLENE	542-75-6	1,3-dichloropropene, DCP	340.0
2,4-DINITROTOLUENE [5]	121-14-2	2,4-DNT	100.0
2,6-DINITROTOLUENE [5]	606-20-2		100.0
1,4-DIOXANE	123-91-1	Diethylene dioxide, p-dioxane	1,040.0
ETHYL ACRYLATE	140-88-5	Ethyl propenoate	1,500.0

COMPOUNDS	CAS NO.	SYNONYMS	MINIMUM EMISSION RATE (POUNDS/YEAR)
ETHYL BENZENE	100-41-4	Phenylethane	20,000.0
GLYCOL ETHERS [6]	109-86-4		1,200.0
HEXACHLORO-1, 3-BUTADIENE	87-68-3	Hexachlorobutadiene	25.0
HEXACHLOROBENZENE	118-74-1	Perchlorobenzene	870.0
HEXACHLOROETHANE	67-72-1	Perchloroethane	700.0
HYDRAZINE	302-01-2		25.0
MANGANESE (AND COMPOUNDS) [1]	7439-96-5		75.0
MERCURY (AND COMPOUNDS) [1]	7439-97-6		25.0
Naphthalene (and Methylnaphthalenes) [11]	91-20-3	Camphor tar	1,990.0
NITROBENZENE	98-95-3	Nitrobenzol	400.0
2-NITROPROPANE	79-46-9	Dimethylnitromethane	2,700.0
PHENOL	108-95-2	Benzenol, Carboic acid	1,400.0
POLYNUCLEAR AROMATIC HYDROCARBONS [7]	206-44-0	PAHs	25.0
SELENIUM (AND COMPOUNDS) [1]	7782-49-2		25.0
STYRENE	100-42-5	Vinylbenzene	2,000.0
TETRACHLOROETHANE	79-34-5	Acetylene tetrachloride	300.0
TETRACHLOROETHYLENE	127-18-4	Antisol 1, Carbon dichloride, Perchloroethylene	2,800.0
TOLUENE-2, 4-DIISOCYANATE [8]	584-84-9		25.0
TOLUENE-2, 6-DIISOCYANATE [8]	91-08-7		25.0
1,1,2-TRICHLOROETHANE	79-00-5	Vinyl trichloride	4,000.0
TRICHLOROETHYLENE	79-01-6	Acetylene trichloride	900.0
VINYLDINE CHLORIDE	75-35-4	1, 1-dichloroethylene	1,500.0
XYLENE (MIXED ISOMERS) [9]	1330-20-7	ortho-xylene, meta-xylene, para-xylene	20,000.0
ZINC (AND COMPOUNDS) [1]	7440-66-6		25.0

CLASS III - Acute and Chronic (Non-Carcinogenic) Toxins

COMPOUNDS	CAS NO.	SYNONYMS	MINIMUM EMISSION RATE (POUNDS/YEAR)
ACRYLIC ACID	79-10-7	Acroleic acid, Propene acid	400.0
AMMONIA [10]	7664-41-7		1,200.0
n-BUTYL ALCOHOL	71-36-3	n-butanol	11,000.0

COMPOUNDS	CAS NO.	SYNONYMS	MINIMUM EMISSION RATE (POUNDS/YEAR)
CARBONYL SULFIDE	463-58-1	Carbon oxysulfide	1,000.0
CHLORINE	7782-50-5		100.0
CRESOL [4]	1319-73-3		1,600.0
CUMENE	98-82-8	Isopropyl benzene	18,000.0
ETHYLENE GLYCOL	107-21-1		9,000.0
n-HEXANE	110-54-3		13,000.0
HYDROCHLORIC ACID	7647-01-0	Hydrogen chloride	500.0
HYDROGEN CYANIDE	74-90-8	Cyclon	800.0
HYDROGEN FLUORIDE	7664-39-3	Fluoric acid	63.0
HYDROGEN SULFIDE	7783-06-4		1,000.0
MALEIC ANHYDRIDE	108-31-6	cis-Butenedioic anhydride	70.0
METHANOL	67-56-1	Methyl alcohol	20,000.0
METHYL ETHYL KETONE	78-93-3	MEK	20,000.0
METHYL ISOBUTYL KETONE	108-10-1	MIBK	15,000.0
METHYL METHACRYLATE	80-62-6		20,000.0
NITRIC ACID	7697-37-2		300.0
PHOSGENE	75-44-5	Carbonyl chloride	30.0
PHTHALIC ANHYDRIDE	85-44-9		400.0
PROPRIONALDEHYDE	123-38-6		700.0
PYRIDINE	110-86-1	Azine	1,200.0
SULFURIC ACID	7664-93-9		75.0
TOLUENE	108-88-3	Methylbenzene	20,000.0
1,1,1-TRICHLOROETHANE	71-55-6	Chloroethene	20,000.0
VINYL ACETATE	108-05-4		2,600.0

EXPLANATORY NOTES:

[1] Includes any unique chemical substance that contains the listed metal as part of that chemical's infrastructure. Concentrations are based on $\mu\text{g} (\times)/\text{m}^3$, where \times is the elemental form of the metal.

[2] Includes only 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), and octachlorodibenzo-p-dioxin (OCDD).

[3] Includes all isomers of chlorinated dibenzo-furans.

[4] Includes o-, m-, and p-cresol, and mixed isomers.

[5] Includes 2,4- and 2,6-dinitrotoluene and mixed isomers.

[6] Glycol ether refers to the following compounds:

Ethylene glycol monomethyl ether (CAS# 109864)

Ethylene glycol monomethyl ether acetate (CAS# 110496)

Ethylene glycol monoethyl ether (CAS# 110805)

Ethylene glycol monoethyl ether acetate (CAS# 111159)

Diethylene glycol dimethyl ether (CAS# 111966)

Ethylene glycol dimethyl ether (CAS# 110714)

[7] Includes organic compounds with more than one fused benzene ring and which have a boiling point greater than or equal to 100° C. Those compounds listed as Naphthalene and Methylnaphthalene are not to be included as PAHs for the purposes of this regulation.

[8] Includes toluene-2,4- and 2,6-diisocyanate and mixed isomers.

[9] Includes o-, m-, and p-xylene, and mixed isomers.

[10] Excludes soil or foliar application of ammonia in agricultural practices.

[11] Includes the following compounds: Naphthalene (CAS #91-20-3), Methylnaphthalene (CAS #1321-94-4), 1-Methylnaphthalene (CAS #92-12-0), 2-Methylnaphthalene (CAS #91-57-6).

Table 51.2 Louisiana Toxic Air Pollutant Ambient Air Standards

COMPOUNDS	CAS NO.	CLASS	AMBIENT AIR STANDARD	
			($\mu\text{g}/\text{m}^3$ *) (8 HOUR AVG.)	($\mu\text{g}/\text{m}^3$ **) (ANNUAL AVG.)
ACETALDEHYDE	75-07-0	II	4,290.00	
ACETONITRILE	75-05-8	II	940.00	
ACROLEIN	107-02-8	II	5.40	
ACRYLAMIDE	79-06-1	II		0.08
ACRYLIC ACID	79-10-7	III	140.00	
ACRYLONITRILE	107-13-1	I		1.47
ALLYL CHLORIDE	107-05-1	II	71.40	
AMMONIA [11]	7664-41-7	III	640.00	
ANILINE	62-53-3	II	181.00	
ANTIMONY (AND COMPOUNDS) [1]	7440-36-0	II	11.90	
ARSENIC (AND COMPOUNDS) [1]	7440-38-2	I		0.02
ASBESTOS (FRIABLE)	1332-21-4	I		+
BARIUM (AND COMPOUNDS) [1]	7440-39-3	II	11.90	
BENZENE	71-43-2	I		12.00
BERYLLIUM [1]	7440-41-7	I		0.04
BIPHENYL	92-52-4	II	31.00	
BIS (2-CHLOROETHYL) ETHER	111-44-4	I		0.30
1,3-BUTADIENE	106-99-0	II		0.92
n-BUTYL ALCOHOL	71-36-3	III	3,620.00	
CADMIUM (AND COMPOUNDS) [1]	7440-43-9	I		0.06
CARBON DISULFIDE	75-15-0	II	86.00	
CARBON TETRACHLORIDE	56-23-5	II		6.67
CARBONYL SULFIDE	463-58-1	III	24.30	
CHLORINATED DIBENZO-p-DIOXINS [2]	3268-87-9	II		.003
CHLORINATED DIBENZO FURANS [3]	51207-31-9	II		.003
CHLORINE	7782-50-5	III	35.7	
CHLORINE DIOXIDE	10049-04-4	II	6.67	
CHLOROBENZENE	108-90-7	II	1,100.00	
CHLOROETHANE	75-00-3	II	62,900.00	
CHLOROFORM	67-66-3	II		4.30
CHLOROMETHANE	74-87-3	II		55.56
CHLOROPRENE	126-99-8	II	857.00	

COMPOUNDS	CAS NO.	CLASS	AMBIENT AIR STANDARD	
			($\mu\text{g}/\text{m}^3$) (8 HOUR AVG.)	($\mu\text{g}/\text{m}^3$) (ANNUAL AVG.)
CHROMIUM VI (AND COMPOUNDS) [1]	7440-47-3	I		0.01
COPPER (AND COMPOUNDS) [1]	7440-50-8	II	23.80	
CRESOL [4]	1319-73-3	III	276.00	
CUMENE	98-82-8	III	5,860.00	
DIAMINOTOLUENE	25376-45-8	II	181.00	
1,2-DIBROMOETHANE	106-93-4	I		0.45
DIBUTYL PHTHALATE	84-74-2	II	119.00	
1,4-DICHLORO-BENZENE	106-46-7	II	10,700.00	
1,2-DICHLOROETHANE	107-06-2	II		3.85
DICHLOROMETHANE	75-09-2	II		212.77
1,2-DICHLOROPROPANE	78-87-5	II	8,260.00	
1,3-DICHLORO-PROPYLENE	542-75-6	II	107.00	
2,4-DINITROTOLUENE [5]	121-14-2	II	35.70	
2,6-DINITROTOLUENE [5]	606-20-2	II	35.70	
1,4-DIOXANE	123-91-1	II	2,140.00	
EPICHLOROHYDRIN	106-89-8	I		83.00
ETHYL ACRYLATE	140-88-5	II	476.00	
ETHYL BENZENE	100-41-4	II	10,300.00	
ETHYLENE GLYCOL	107-21-1	III	3,020.00	
ETHYLENE OXIDE	75-21-8	I		1.00
FORMALDEHYDE	50-00-0	I		7.69
GLYCOL ETHERS [6]	109-86-4	II	571.00	
HEXACHLORO-1,3-BUTADIENE	87-68-3	II		4.55
HEXACHLOROBENZENE	118-74-1	II		0.20
HEXACHLOROETHANE	67-72-1	II		25.00
n-HEXANE	110-54-3	III	4,190.00	
HYDRAZINE	302-01-2	II		0.02
HYDROCHLORIC ACID	7647-01-0	III	180.00	
HYDROGEN CYANIDE	74-90-8	III	260.00	
HYDROGEN FLUORIDE	7664-39-3	III	61.90	
HYDROGEN SULFIDE	7783-06-4	III	330.00	
MALEIC ANHYDRIDE	108-31-6	III	23.80	
MANGANESE (AND COMPOUNDS) [1]	7439-96-5	II	27.60	
MERCURY (AND COMPOUNDS) [1]	7439-97-6	II	1.19	

COMPOUNDS	CAS NO.	CLASS	AMBIENT AIR STANDARD	
			($\mu\text{g}/\text{m}^3$ *) (8 HOUR AVG.)	($\mu\text{g}/\text{m}^3$ **) (ANNUAL AVG.)
METHANOL	67-56-1	III	6,240.00	
METHYL ETHYL KETONE	78-93-3	III	14,000.00	
METHYL ISOBUTYL KETONE	108-10-1	III	4,880.00	
METHYLMETH-ACRYLATE	80-62-6	III	9,760.00	
Naphthalene (and Methyl-naphthalenes [12])	91-20-3	II	1,190.00	
NICKEL (AND COMPOUNDS) [1]	7440-02-0	I		0.21
NICKEL (REFINERY DUST) [1]	7440-02-0	I		0.42
NITRIC ACID	7697-37-2	III	120.00	
NITROBENZENE	98-95-3	II	119.00	
2-NITROPROPANE	79-46-9	II		20.00
PHENOL	108-95-2	II	452.00	
PHOSGENE	75-44-5	III	9.50	
PHTHALIC ANHYDRIDE	85-44-9	III	145.00	
POLYNUCLEAR AROMATIC HYDROCARBONS [7]	206-44-0	II		0.06
PROPIONALDEHYDE	123-38-6	III	4,290.00	
PROPYLENE OXIDE	75-56-9	I		27.00
PYRIDINE	110-86-1	III	381.00	
SELENIUM (AND COMPOUNDS) [1]	7782-49-2	II	4.76	
STYRENE	100-42-5	II	5,070.00	
SULFURIC ACID	7664-93-9	III	23.80	
1,1,2,2 TETRA-CHLOROETHANE	79-34-5	II		1.70
TETRACHLORO ETHYLENE	127-18-4	II		105.26
TOLUENE	108-88-3	III	8,900.00	
TOLUENE-2,4-DIISOCYANATE [8]	584-84-9	II	0.86	
TOLUENE-2,6-DIISOCYANATE [8]	91-08-7	II	0.86	
1,1,1-TRICHLOROETHANE	71-55-6	III	4,550.00	
1,1,2-TRICHLOROETHANE	79-00-5	II		6.25
TRICHLOROETHYLENE	79-01-6	II		58.80
VINYL ACETATE	108-05-4	III	830.00	
VINYL CHLORIDE	75-01-4	I		1.19
VINYLDENE CHLORIDE	75-35-4	II		2.00
XYLENE (MIXED ISOMERS) [9]	1330-20-7	II	10,300.00	
ZINC (AND COMPOUNDS) [1][10]	7440-66-6	II	119.00	

EXPLANATORY NOTES:

* Based on one forty-second of the selected occupational exposure level, or other data determined to be superior by the administrative authority.

** Based on unit risk factors and a residual risk of one in ten thousand, or other data determined to be superior by the administrative authority.

+ Refer to standards pursuant to LAC 33:III.5151.

[1] Includes any unique chemical substance that contains the listed metal as part of that chemical's infrastructure. Concentrations based on $\mu\text{g}(x)/\text{m}^3$, where x is the elemental form of the metal.

[2] Includes only 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), and octachlorodibenzo-p-dioxin (OCDD).

[3] Includes all isomers of chlorinated dibenzo-furans.

[4] Includes o-, m-, and p-cresol, and mixed isomers.

[5] Includes 2,4- and 2,6-dinitrotoluene and mixed isomers.

[6] Glycol ether refers to the following compounds:

Ethylene glycol monomethyl ether (CAS# 109864)

Ethylene glycol monomethyl ether acetate (CAS# 110496)

Ethylene glycol monoethyl ether (CAS# 110805)

Ethylene glycol monoethyl ether acetate (CAS# 111159)

Diethylene glycol dimethyl ether (CAS# 111966)

Ethylene glycol dimethyl ether (CAS# 110714)

[7] Includes organic compounds with more than one fused benzene ring and which have a boiling point greater than or equal to 100° C. Those compounds listed as Naphthalene and Methylnaphthalene are not to be included as PAHs for the purposes of this regulations.

[8] Includes toluene-2,4- and 2,6-diisocyanate and mixed isomers.

[9] Includes o-, m-, and p-xylene, and mixed isomers.

[10] Concentrations based on mg ZnO/m³.

[11] Excludes soil or foliar application of ammonia in agricultural practices.

[12] Includes the following compounds: Naphthalene (CAS #91-20-3), Methylnaphthalene (CAS #1321-94-4), 1-Methylnaphthalene (CAS #90-12-0), 2-Methylnaphthalene (CAS #91-57-6).

Table 51.3 LOUISIANA TOXIC AIR POLLUTANTS SUPPLEMENTAL LIST*

COMPOUNDS	CAS NO.	CLASS	SYNONYMS
ACETAMIDE	60-35-5	II	
ACETOPHENONE	98-86-2	III	
2-ACETYLAMINOFLUORENE	53-96-3	II	N-fluoren-2-yl acetamide
4-AMINOBIPHENYL	92-67-1	I	4-biphenylamine, 4-aminodiphenyl
o-ANISIDINE	90-04-0	II	
BENZIDINE	92-87-5	I	
BENZOTRICHLORIDE	98-07-7	II	Benzyl trichloride
BENZYL CHLORIDE	100-44-7	II	Tolyl chloride
Bis(2-ethylhexyl)phthalate	117-81-7	II	DEHP, Di-(2-ethylhexyl)phthalate
BIS(CHLOROMETHYL)ETHER	542-88-1	I	
BROMOFORM	75-25-2	II	Tribromomethane
CALCIUM CYANAMIDE	156-62-7	III	
CAPROLACTAM	105-60-2	II	Hexahydro-2H-azepin-2-one
CAPTAN	133-06-2	II	
CARBARYL	63-25-2	II	1-naphthalenol, methylcarbonate
CATECHOL	120-80-9	III	Pyrocatechol, o-benzenedrol
CHLORAMBEN	133-90-4	III	3-amino-2,5-dichlorobenzoic acid
CHLORDANE	57-74-9	II	
CHLOROACETIC ACID	79-11-8	II	
2-CHLOROACETOPHENONE	532-27-4	II	
CHLOROBENZILATE	510-15-6	II	4,4'-dichlorobenzilic acid ethyl ester
CHLOROMETHYL METHYL ETHER	107-30-2	I	CMME, chlorodimethyl ether

COMPOUNDS	CAS NO.	CLASS	SYNONYMS
COBALT COMPOUNDS	10210-68-1	II	
COKE OVEN EMISSIONS [1]		I	
CYANIDE COMPOUNDS [4]	592-01-8	III	
2,4-D, SALTS AND ESTERS	94-75-7	II	2,4-dichlorophenoxy-acetic acid
DDE	72-55-9	II	p,p'-dichlorodiphenyldichloroethylene
DIAZOMETHANE	334-88-3	III	Azinethylene, diazirine
1,2-DIBROMO-3-CHLOROPROPANE	96-12-8	II	DBCP
3,3'-DICHLOROBENZIDENE	91-94-1	II	Dichlorobenzidene Base
DICHLORVOS	62-73-7	II	2,2-dichlorovinyl dimethyl phosphate
DIETHANOLAMINE	111-42-2	III	DEA, Bis(2-hydroxy ethyl)amine
N,N-DIETHYL ANILINE	91-66-7	III	
DIETHYL SULFATE	64-67-5	I	Ethyl sulfate
3,3'-DIMETHOXYBENZIDENE	119-90-4	II	o-dianisidine
DIMETHYL AMINOAZOBENZENE	60-11-7	II	4-dimethylaminoazobenzene
N,N-DIMETHYL ANILINE	121-69-7	III	
DIMETHYL FORMAMIDE	68-12-2	II	DMF, DMFA
1,1-DIMETHYL HYDRAZINE	57-14-7	II	Dimazine
DIMETHYL PHTHALATE	131-11-3	II	Phthalic acid methyl ester
DIMETHYL SULFATE	77-78-1	I	Methyl sulfate, DMS
3,3'-DIMETHYLBENZIDINE	119-93-7	II	3,3'-tolidine, diaminoditoyl
N,N-DIMETHYL CARBAMOYL CHLORIDE	79-44-7	I	(Dimethylamino)carbonyl chloride
4,6-DINITRO-o-CRESOL, AND SALTS	534-52-1	II	
2,4-DINITROPHENOL	51-28-5	II	
1,2-DIPHENYLHYDRAZINE	122-66-7	II	Hydrazobenzene
1,2-EPOXYBUTANE	106-88-7	III	1,2-butylene oxide, 1-butene oxide
ETHYL CARBAMATE	51-79-6	II	Urethane
ETHYLENE DIBROMIDE	106-93-4	I	EDB, Dibromoethane
ETHYLENE IMINE	151-56-4	II	Aziridine
ETHYLENE THIOUREA	96-45-7	II	2-imidazolidinethione
ETHYLIDENE DICHLORIDE	75-34-3	II	1,1-dichloroethane
FINE MINERAL FIBERS [2]	7440-21-3	I	
GLYCOL ETHERS [3]	52286-19-8	II	
HEPTACHLOR	76-44-8	II	3-chlorochlordene
HEXACHLOROCYCLOPENTADIENE	77-47-4	III	HCCPD
HEXAMETHYLENE-1,6-DIISOCYANATE	822-06-0	III	1,6-diisocyanatohexane
HEXAMETHYL PHOSPHORAMIDE	680-31-9	II	HMPA, MEMPA, hempa
HYDROQUINONE	123-31-9	III	Quinol, hydroquinol, p-hydroxybenzene

COMPOUNDS	CAS NO.	CLASS	SYNONYMS
ISOPHORONE	78-59-1	II	Isoacetophorone
LEAD COMPOUNDS	7758-97-6	II	
LINDANE, (ALL ISOMERS)	58-89-9	II	Benzene hexachloride (all 5 isomers)
METHOXYCHLOR	72-43-5	II	Methoxy DDT, DMDT, Dimethoxy-DDT
METHYL BROMIDE	74-83-9	III	Bromomethane
Methyl Hydrazine	60-34-4	II	
METHYL IODIDE	74-88-4	II	Iodomethane
METHYL ISOCYANATE	624-83-9	II	
METHYL TERT BUTYL ETHER	1634-04-4	III	MTBE
4,4'-METHYLENEBIS(2-CHLOROANILINE)	101-14-4	II	MOCA, MBOCA
4,4'-METHYLENE DIANILINE	101-77-9	II	MDA, p,p'-diaminodiphenylmethane
Methylene Diphenyl Diisocyanate	101-68-8	III	MDI
4-NITROBIPHENYL	92-93-3	II	4-nitrodiphenyl, p-nitrobiphenyl
4-NITROPHENOL	100-02-7	III	p-nitrophenol
N-NITROSO-N-METHYLUREA	684-93-5	II	N-methyl-N-nitrosourea
N-NITROSODIMETHYLAMINE	62-75-9	I	DMN, dimethylnitrosoamine
N-NITROSOMORPHOLINE	59-89-2	II	4-nitrosomorpholine
PARATHION	56-38-2	II	AATP, ethyl parathion
PENTACHLORONITROBENZENE	82-68-8	II	Quintobenzene, PCNB
PENTACHLOROPHENOL	87-86-5	II	PCP
p-PHENYLENEDIAMINE	106-50-3	III	p-diaminobenzene
PHOSPHINE	7803-51-2	III	Hydrogen phosphide
PHOSPHORUS	7723-14-0	III	(red or white)
POLYCHLORINATED BIPHENYLS	1336-36-3	II	PCB, Aroclors
1,3-PROPANE SULTONE	1120-71-4	II	1,2-oxathiolane-2, 2-dioxide
beta-PROPIROLACTONE	57-57-8	II	2-oxetanone
PROPOXUR	114-26-1	III	Baygon, o-isopropoxyphenyl methylcarbamate
1,2-PROPYLENEIMINE	75-55-8	II	2-methyl aziridine, Propylene imine
QUINOLINE	91-22-5	III	Chinoline
QUINONE	106-51-4	III	Chinone, 1,4-benzoquinone, p-benzoquinone
STYRENE OXIDE	96-09-3	I	1,2-epoxyethylbenzene
TITANIUM TETRACHLORIDE ¹	7550-45-0	III	Titanic chloride
2,4-TOLUENE DIAMINE	95-80-7	II	MTD, Toluene-2,4-diamine
o-TOLUIDINE	95-53-4	II	o-aminotoluene
TOXAPHENE	8001-35-2	II	Chlorinated camphene
1,2,4-TRICHLOROBENZENE	120-82-1	II	unsym-trichlorobenzene
2,4,5-TRICHLOROPHENOL	95-95-4	III	

COMPOUNDS	CAS NO.	CLASS	SYNONYMS
2,4,6-TRICHLOROPHENOL	88-06-2	II	2,4,6-T
TRIETHYLAMINE	121-44-8	III	
TRIFLURALIN	1582-09-8	II	2,6-dinitro-N,N-dipropyl-4-(trifluoromethyl)benzamine
2,2,4-TRIMETHYLPENTANE	540-84-1	III	Isooctane
VINYL BROMIDE	593-60-2	II	Bromoethane

EXPLANATORY NOTES:

* For pollutants listed in Table 51.3, minimum emission rates and ambient air standards have not been established. Certain requirements of this Subchapter do not apply to these pollutants. For example, the provisions of LAC 33:III.5109, MACT and Ambient Air Standard Requirements and Standard Operating Procedure requirements, do not apply. Emissions of Table 51.3 pollutants shall not be counted toward a facility's total toxic air pollutant emissions in determining whether a stationary source is a major source for the purposes of this Subchapter. The provisions of LAC 33:III.5107.A, B, and C, Reporting Requirements and Availability of Information, do apply to emissions of Table 51.3 pollutants. Such emissions shall be reported on the Annual Emissions Reports provided for under LAC 33:III.5107.A.2, beginning with the report due July 1, 1993. To determine the applicability of other provisions to the pollutants listed in this table, refer to the text of this Subchapter.

[1] Coke manufacturers to which the reporting requirements of this Subchapter apply should report emissions of listed Louisiana toxic air pollutants in the same format used by all other affected major sources in the state.

[2] Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

[3] Excludes those glycol ethers listed in Table 51.2. Those glycol ethers listed in Table 51.2 are subject to all provisions of this Subchapter. Includes any other mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol $R(OCH_2CH_2)_n-OR'$ where

n = 1,2, or 3

R = alkyl or aryl groups

R' = R, H, or groups which, when removed, yield glycol ethers with the structure:

$R(OCH_2CH_2)_n-OH$. Polymers are excluded from the glycol category.

[4] $X'CN$ where X = H' or any group where a formal dissociation may occur. For example KCN or $Ca(CN)_2$

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18: (December 1992).

Subchapter B. (Reserved)

Subchapter C. (Reserved)

§5121. Emission Standard For Vinyl Chloride (Includes ethylene dichloride and polyvinyl chloride plants)

F. Emission Standard for Ethylene Dichloride, Vinyl Chloride, and Polyvinyl Chloride Plants

An owner or operator of an ethylene dichloride, vinyl chloride, and/or polyvinyl chloride plant shall comply with the requirements of this Section.

1. Relief Valve Discharge. Except for an emergency relief discharge and except as provided in Subsection F.4 of this Section, there is to be no discharge to the atmosphere from any relief valve on any equipment in vinyl chloride service. An emergency relief discharge means a discharge which could not have been avoided by taking measures to prevent the discharge. Within seven days of any relief valve discharge, except for those subject to Subsection F.4 of this Section, the owner or operator of the source from which the relief valve discharge occurs shall submit to the administrative authority a report in writing containing information on the source, nature and cause of the discharge, the date and time of the discharge, the approximate total vinyl chloride loss during the discharge, the method used for determining the vinyl chloride loss (the calculation of the vinyl chloride loss), the action that was taken to prevent the discharge, and measures adopted to prevent future discharges.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18: (December 1992).

§5161. Emission Standard For Beryllium

D. Stack Sampling

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18: (December 1992).

§5171. Louisiana Emission Standard for Equipment Leaks (Fugitive Emission Sources)

A. Applicability and Designation of Sources

4. Any equipment in benzene service that is located at a plant site designed to produce or use less than 1100 tons

(300,000 gallons) of benzene per year is exempt from the requirements of this Section, except that the requirements of Subsection R.9.a of this Section shall still apply.

* * *

R. Recordkeeping Requirements

* * *

9. The following information shall be recorded in a log that is kept in a readily accessible location for use in determining exemptions as provided in the applicability section of this Subchapter and other specific subchapters:

a. an analysis demonstrating the design capacity of the process unit; or

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 17:1204 (December 1991), amended LR 18: (December 1992).

James B. Thompson, III
Assistant Secretary

RULE

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

**Hazardous Waste Boilers/Industrial Furnaces II (HW32)
(LAC 33:V.Subpart I)**

Under the authority of the Louisiana Environmental Quality Act, particularly La. R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, La. R.S. 49:950, et seq., the secretary has amended the hazardous waste regulations, LAC 33:V.Subpart I, (Log HW32).

This rule will revise existing state regulations to be consistent with current federal regulations. It may be more stringent than federal regulations in some areas. This will allow the state to meet all requirements concerning the authorization process, which will effectively ensure grant support funds. This rule will expand controls on hazardous waste combustion to regulate air emissions from the burning of hazardous waste in boilers and industrial furnaces. Standards are set for emissions of toxic organic compounds, toxic metals, hydrogen chloride, chlorine gas, and particulate matter from boilers and industrial furnaces burning hazardous waste. This rule will also address facility standards, storage units, interim status, and other issues.

These regulations are to become effective on December 20, 1992, or upon publication in the *Louisiana Register*.

Copies of this regulation may be obtained from the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802.

James B. Thompson, III
Assistant Secretary

RULE

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

Wood Preserving (HW33) (LAC 33:V.Subpart 1)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the hazardous waste regulations, LAC 33:V.Subpart 1, (Log HW33).

The regulations would revise existing state regulations to be consistent with current federal regulations. It may be more stringent than federal regulations in some areas. The regulations are concerned with listing as hazardous three categories of wastes from wood preserving operations that use chlorophenolic, creosote, and/or inorganic (arsenical and chromium) preservatives. This rule also includes permitting and interim status standards for drip pads used to assist in the collection of treated wood drippage.

These regulations are to become effective on December 20, 1992, or upon publication in the *Louisiana Register*.

This regulation is available at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804.

James B. Thompson, III
Assistant Secretary

RULE

**Office of the Governor
Division of Administration
Office of Telecommunications Management**

Non-state Entity

In accordance with the notice of intent published September 20, 1992 in the *Louisiana Register*, the Office of Telecommunications Management in accordance with R.S. 49:950 et seq. and R.S. 39:140-143 hereby amends LAC 4:IX as follows:

Title 4

ADMINISTRATION

Part IX. Telecommunications

Chapter 5. Approval of Non-State Entity Use of State Telecommunications Services

* * *

§503. Approval Criteria

When one of the following criteria is met and upon approval of the Office of Telecommunications Management, non-state entities may use state telecommunications services.

A. ...

B. The non-state entities shall be either:

1.-4....

5. private educational institutions in the State of Louisiana with classes from kindergarden through 12th grade, and colleges and universities, when requesting access to the LaNet Wide Area Network for educational and/or research purposes.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751-1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), amended LR 18:610 (June 1992), LR 18: (December 1992).

Bud Lanier
Director

RULE

Office of the Governor Office of Elderly Affairs

Corporate Eldercare Case Management (LAC 4:VII. Chapters 11 and 12)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Governor's Office of Elderly Affairs (GOEA) has adopted the following rule effective December 20, 1992. The purpose of this rule is to establish standards for arrangements that area agencies on aging and/or Title III subcontractors may have with private entities to provide services to a business firm on behalf of its older employees, retirees, or employees who have caregiver responsibilities for elderly relatives; and/or to provide one or more components of case management as defined herein.

Title 4

ADMINISTRATION

Part VII. Governor's Office of Elderly Affairs

Chapter 11. Elderly Affairs

Subchapter B. Area Agency on Aging

§1127. Area Agency Responsibilities

A.-B....

C. Eldercare/Case Management

1. Area agencies may provide eldercare, as specified in LAC 4:VII.1241.

2. Area agencies may provide one or more components of case management for a private entity, as specified in LAC 4:VII.1241.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a) and 45 CFR 1321.61(a)(4).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:600 (June 1991), LR 18: (December 1992).

§1133. Area Plan for Programs on Aging

A.-B....

C. Content of the Area Plan

1. The area plan will specify:
a. conditions of older persons in the planning and service area;

b. current system of service delivery based on the most recently available data;

c. an assessment of current capacity in the planning and service area to perform service systems development activities;

d. the organization of the area agency;

e. composition and functions of the area agency advisory council;

f. goals and objectives for the conduct of the area agency functions described in this Section, and for development and delivery of services for the aging. Service delivery objectives include, for each service, the projected numbers of persons to be served and standard units of service to be provided;

g. financial plan, showing projected expenditures by source (federal, state, and local) and service;

h. standard assurances for complying with applicable laws, regulations, and other directives; and

i. the area agency's approach to, plans for, and/or current involvement in eldercare, as defined in LAC 4:VII.1241.

2. Whenever the area agency and/or one or more of its Title III subcontractors plans to provide eldercare and/or to provide case management for a private entity, the area plan, or its amendment, shall include the provisions specified in LAC 4:VII.1241(D).

D.-F....

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(2) and Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:57 (January 1991), LR 18: (December 1992).

Subchapter D. Service Provider Responsibilities

§1209. Eldercare/Case Management

A. Title III subcontractors may provide eldercare, as specified in LAC 4:VII.1241.

B. Title III subcontractors may provide one or more components of case management for a private entity, as specified in LAC 4:VII.1241.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(2) and Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18: (December 1992).

Subchapter E. Uniform Service Requirements

§1241. Eldercare/Case Management

A. Scope

1. This Section governs area agencies on aging and Title III subcontractors under area plans that enter into contracts to provide eldercare as defined in Subsection B of this Section.

2. This Section also applies to arrangements that area agencies and Title III subcontractors may have with private entities to provide case management as defined in Subsection B of this Section.

B. Definitions

Access/Intake/Screening—marketing and initial contact with the area agencies from the individual and/or the company requesting case management services.

Assessment—a face to face evaluation utilizing a standardized assessment tool to determine the individual's needs and resources.

a. The assessment provides some or all of the following information regarding the individual:

- i. functional level;
- ii. cognitive status;
- iii. health status;
- iv. current living arrangement; and
- v. use of formal and informal support system.

b. There are three possible assessments that can be conducted for a private entity:

- i. an underwriting assessment;
- ii. a benefits assessment; and
- iii. a care plan assessment.

Business firm—a private entity.

Care Plan Implementation/Coordination—assessing and coordinating the appropriate services (services delivery) and assisting the individual to make the necessary financial arrangements to implement an individual's plan of care.

Care Planning—determining with the individual, the appropriate and available mix of formal and informal services and resources to meet the individual's long term care needs, and developing a plan of care to meet those needs.

Case Management—a service with several components, which collectively make up case management. The components of case management include a combination of some or all of the following: access/intake/screening; assessment; care planning; care plan implementation/coordination; and continued care management.

Continued Care Management—the monitoring, reassessment, and discharge or termination component of case management. More specifically this includes:

- a. monitoring the service delivery, quality of care provided, and status of the individual;
- b. reassessing the individual's cognitive status, health status, and functional level as they relate to the care provided and making appropriate changes as needed; and
- c. closing the case once an individual no longer requires case management due to depletion of insurance coverage; death; or improved health, whereby case management services are no longer required.

Eldercare—a service provided to a business firm on behalf of its older employees, retirees, or employees who have caregiver responsibilities for elderly relatives. The service most often includes a form of enhanced information and referral, but may extend to other types of services and/or programs, as determined by the employer. Typically, eldercare benefits are provided through a contract under which the business firm, or an intermediary, makes third party payments to an area agency on aging (or other agency or organization) to provide directly or to arrange for the provision of specified services and/or programs to a defined group of corporate employees on behalf of their older relatives.

C. Services Authorized

1. Eldercare

a. Area agencies may provide the following services under eldercare contracts only under an approved area plan:

- i. services directly related to area agency on aging administrative functions, as defined in §1143 (8)(1) of this manual;
- ii. services the state agency has authorized the area agency to provide directly during the contract period.

b. Title III subcontractors may provide any service in the

GOEA Taxonomy under eldercare contracts, subject to applicable licensure requirements only under an approved area plan.

2. Case Management for a Private Entity

Area agencies and/or Title III subcontractors may provide one or more components of case management, as defined in Subsection B of this Section, for a private entity, only under an approved area plan.

D. Area Plan Requirements for the Provision of Eldercare and/or Case Management for a Private Entity

1. Whenever the area agency and/or one or more of its Title III subcontractors plans to provide eldercare, and/or case management for a private entity, the area plan, or its amendment, shall:

- a. specify whether the area agency intends to provide the service(s) directly or whether a Title III subcontractor under the area plan intends to provide the service(s);
- b. specify what service is to be provided under each contract; and

c. provide the following assurances:

i. Services shall not conflict with, or prevent the area agency from accomplishing its mission under the Older Americans Act and Title III regulations.

ii. The area agency shall continue to fully and effectively comply with its responsibilities to target its Title III resources and services to older persons in the greatest economic or social need, with particular attention to low income minority older persons.

iii. The area agency or Title III subcontractors under an area plan shall not enter into any agreement with a business firm which would restrict the area agency from providing services to older persons and those who support them, or would prohibit a service provider from entering into agreements with other corporations to provide similar services or benefits.

iv. The business firm shall pay the full cost associated with the services being provided under the contract. This includes any start-up costs, administrative costs, overhead costs or any other costs that are involved in providing the service(s).

v. Revenues and expenditures under the contract shall be accounted for separately from Older Americans Act funds and other public funds.

vi. Each area agency on aging shall disclose to the state agency on aging the provisions and terms of all proposed contracts to provide eldercare and/or case management as defined in Subsection B of this Section, as required by the state agency.

2. The information shall be provided in the format prescribed by the state agency.

E. Restrictions

1. This Subsection applies to the referrals that might be made by the staff of an information and referral provider or a case manager under an eldercare contract.

2. Older persons referred to an Older Americans Act funded service provider under an eldercare contract shall not be given any special consideration by service providers.

3. Older persons referred for services funded under the Older Americans Act shall be subject to the same criteria that would apply to any other potential recipient of service.

4. An exception to the restriction in Paragraph two, above,

can be made in those instances where the business firm, under contract, has agreed in the contract to pay the full cost of any service(s) rendered by the area agency on aging or provided by a service provider under an area plan.

F. Monitoring and Assessment Responsibilities

1. The state agency shall monitor and assess the area agency agencies for compliance with all of the provisions of this Section. Corporate contracts will be monitored by the State agency as part of the annual program review process.

2. The area agency shall monitor and assess the Title III subcontractors for compliance with all of the provisions of this Section.

G. Failure to Comply

Substantial failure of an area agency on aging or Title III subcontractor to fulfill all of the provisions of this Section shall be grounds for termination of the Title III contract or subcontract.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(2) and Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18: (December 1992).

James R. Fontenot
Director

RULE

**Department of Health and Hospitals
Board of Chiropractic Examiners**

Continuing Education and General Practice

Pursuant to R.S. 49:950 et seq., the Board of Chiropractic Examiners adopted additional rules relative to the management of the board of examiners, continuing education and the general practice of chiropractic.

TITLE 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXVII. Chiropractors**

Chapter 1. Practice and Procedure

§103. Election of Officers

B. The election of president, vice president and secretary treasurer of the board shall be held at the annual July meeting following the testing of licensed applicants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2802, 37:2803 and 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:49 (February 1976), amended by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 18: (December 1992).

Chapter 3. Professional Conduct

§302. Surrogate Muscle Testing

Surrogate muscle testing is not within the scope of chiropractic practice in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2801 and 37:2816.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 18: (December 1992).

§304. HIV/HBV Precautions

Concerning the prevention of transmission of Human Immunodeficiency (HIV) and Hepatitis B Virus (HBV), the Doctor of Chiropractic will comply with the recommendations of the Center for Disease Control (CDC).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746 and 37:1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 18: (December 1992).

§318. Specialty Register

Any Doctor of Chiropractic in the state of Louisiana who holds himself or herself out to the public as being a specialist in any area must register with the Louisiana Board of Chiropractic Examiners. Said Specialists shall have had the appropriate education and training and hold adequate credentials in that given speciality from a body recognized by the Council on Chiropractic Education. In order to be included in the registry the doctor shall submit verification that he/she has completed all requirements of the appropriate speciality board and has been accepted for speciality status. Upon receipt and verification of the above documentation, the board shall issue said doctor a registry number, place his/her name on the Registry and mail notification to the doctor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2801 and 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 18: (December 1992).

§319. Continuing Education-Risk Management

The phrase "risk management", as referred to in R.S. 37:2810(2), means the identification, investigation, analysis and evaluation of risks and the selection of the most advantageous method of correcting, reducing or eliminating identifiable risks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2810(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 18: (December 1992).

Dr. John Booth
Board President

RULE

**Department of Health and Hospitals
Board of Pharmacy**

**Prescription Dispensing, Patient Counseling, Pharmacy
Support Staff, Prospective
Drug Review, Out-of-State Requirements
(LAC 46:LIII.Chapters 9 and 23)**

The Louisiana Board of Pharmacy in accordance with R.S. 37:1178 and the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its rules and regulations regarding prescription dispensing, patient counseling,

patient profile, prospective drug review, pharmacy support staff and supportive personnel and out-of-state pharmacies. In consideration of comments received during the comment period and the public hearing, these final rules have been slightly amended from the notice of intent by the board in session. Section 919 will be effective April 1, 1993, and Sections 913, 915, 917 and Chapter 23 are effective January 1, 1993.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

PART LIII. Pharmacists

Chapter 9. Pharmacies

§913. Prescription Dispensing

A. Definitions

Prescription dispensing—is the issuance, by a licensed pharmacist, of one or more doses of medication in a suitable container, properly labeled for subsequent administration, and shall consist of the following procedures or practices:

1. receiving and interpretation of the written or oral prescription order; and
2. assembling the drug products and an appropriate container; and
3. preparing the prescription by compounding, mixing, counting, or pouring; and
4. affixing the proper label to the final container; and
5. patient counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:779 (August 1991), LR 18: (December 1992).

§915. Patient Counseling

A. Definition of patient counseling. *Patient counseling* shall mean the effective communication by the pharmacist of information, as defined in this regulation, to the patient or caregiver, in order to improve therapeutic outcomes by maximizing proper use of prescription medications and devices.

B. Sign. The use of a sign to alert patients that patient counseling services are available may be appropriate for informing patients of this service, but does not satisfy the requirements for counseling, since many patients may not be able to read or understand the sign.

C. Waiver. No pharmacist or pharmacy may solicit or encourage blanket waivers for patient counseling, however, nothing in this regulation shall prohibit the patient or caregiver from refusing counseling on each prescription.

D. Minimum requirements. At a minimum, the pharmacist should be convinced that the patient or caregiver, as a result of counseling, is informed of the following:

1. the name and description of the medication;
2. the dosage form, dosage, route of administration, and duration of drug therapy;
3. special directions and precautions for preparation, administration, and use by the patient;
4. common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;
5. techniques for self-monitoring drug therapy;
6. proper storage;

7. prescription refill information; and

8. action to be taken in the event of a missed dose.

E. The pharmacist may supplement oral information with written information but may not use written information alone to fulfill the counseling requirement.

F. Patient information. In order to effectively counsel patients, the pharmacist shall be responsible to ensure that a reasonable effort is made to obtain, record, and maintain the following patient information, if significant, but not limited to:

1. name, address, telephone number;
2. date of birth (age), gender;
3. medical history;
 - a. disease state(s);
 - b. allergies/drug reactions;
 - c. current list of medications and devices.

This information may be recorded in the patient's manual or electronic profile, or in any other system of records and may be considered by the pharmacist in the exercise of his professional judgment concerning both the offer to counsel and content of counseling. The absence of any record of a failure to accept the pharmacist's offer to counsel shall be presumed to signify that such offer was accepted and that such counseling was provided.

G. Communication to the patient

1. A pharmacist should counsel the patient or caregiver "face to face" when possible or appropriate. If it is not possible or appropriate to counsel the patient or caregiver "face to face," then a pharmacist should counsel the patient or caregiver by using alternative methods. The pharmacist must exercise his professional judgment in the selection of an alternative method;

2. Patient counseling, as described in this regulation should also be provided for outpatient and discharge patients of hospitals and institutions where applicable;

3. Patient counseling, as described herein shall not be required for inpatients of a hospital or institution where a nurse or other licensed health care professional is authorized to administer the medication(s); and

4. The pharmacist shall maintain appropriate patient-oriented reference materials for use by the patient upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 18: (December 1992).

§917. Prospective Drug Review

When professionally relevant a pharmacist shall review the patient record and each prescription drug order presented for dispensing for purposes of enhancing pharmaceutical care and therapeutic outcomes by identifying:

1. over-utilization or under-utilization;
2. therapeutic duplication;
3. drug-disease contraindications;
4. drug-drug interactions;
5. incorrect drug dosage or duration of drug treatment;
6. drug-allergy interactions;
7. clinical abuse/misuse.

Upon recognizing any of the above, the pharmacist shall take appropriate steps necessary to avoid or resolve the problem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 18: (December 1992).

§919. Pharmacy Support Staff And Supportive Personnel

In an effort to relieve the pharmacist of regular, routine, non-judgmental, mechanical and non-discretionary tasks so that the pharmacist may counsel patients, improve pharmaceutical care and therapeutic outcomes, the board hereby adopts this regulation and allows certain tasks to be performed by pharmacy support staff. Hospital pharmacy support staff person definitions and duties are enumerated in Chapter 25 and not included or authorized in this section.

A. Definitions.

1. *Supportive Personnel*—encompasses all non-pharmacists who work or perform tasks in a pharmacy (clerk, delivery, typist, janitor, etc.).

2. *Pharmacy Support Staff*—for a pharmacist denotes an employee who has been trained to assist the pharmacist and perform non-judgmental, technical, manipulative, non-discretionary functions in the prescription department under the pharmacist's immediate and direct supervision.

B. *Qualifications for Pharmacy Support Staff.* A pharmacy support staff person shall be of the age of majority, a high school graduate or equivalent, be of good moral character and non-impaired. The pharmacy support staff person must, at a minimum, satisfactorily complete a board-approved pharmacy support staff training program. The program shall be designed to train personnel to perform non-professional functions allowed as described in this section. The pharmacy support staff training program will be available from the board office.

1. The pharmacy support staff person shall have satisfactorily completed the training program prior to regular performance of the duties authorized in this Chapter.

2. The pharmacist-in-charge shall assure the on-going competency of pharmacy support staff persons through in-service training programs.

3. Documentation of completion of the required board-approved pharmacy support staff training program and all completed in-service training shall be maintained in the pharmacy.

4. Pharmacy support staff persons must be identified by name tag and designation while working in the pharmacy.

C. Supervision

1. All tasks performed by pharmacy support staff persons in the pharmacy must be accomplished under immediate and direct supervision of a currently licensed pharmacist.

2. Working under a pharmacist's immediate and direct supervision a qualified pharmacy support staff person may perform certain functions of dispensing as enumerated in this Chapter, provided that whenever the pharmacist leaves the prescription department, other than to counsel a patient, all dispensing functions listed in §913 shall cease.

3. *Ratio.* A ratio of no more than one pharmacy support staff person per supervising pharmacist on duty shall be maintained.

D. *Duties.* The following tasks may be performed by pharmacy support staff persons:

1. retrieve prescriptions or files as necessary;
2. clerical tasks such as typing labels and maintaining patient profiles;

3. secretarial tasks such as telephoning, filing, and typing;
4. accounting tasks such as record keeping, maintaining accounts receivables, third party reimbursements, and posting;
5. inventory control tasks including monitoring, pricing, dating, invoicing, stocking pharmacy, and preparation of purchase orders;
6. help maintain a clean and orderly pharmacy;
7. request, receive and record prescription refill information;
8. other functions which are assigned by the supervising pharmacist.

E. *Prohibitive duties.* The support staff person must not:

1. interpret the prescription;
2. accomplish any compounding or reconstitutions;
3. prepare any IV, enteral or other sterile medications;
4. order, stock, dispense, or perform any other physical task involving controlled dangerous substances in Schedules I and II;
5. counsel patients.

F. *Pharmacist additional responsibilities.* The pharmacist:

1. must review the completed prescription for accuracy and compliance before the prescription is released from the prescription department; and
2. is to provide patient counseling or drug information as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 18: (December 1992).

Chapter 23. Out-of-State Pharmacy

§2301. Out-of-State Pharmacy Requirements

An out-of-state Louisiana pharmacy permit shall be required for an out-of-state pharmacy to transact business by dispensing and delivering prescription medications and devices to residents in Louisiana, and the pharmacy must be in compliance with applicable federal and Louisiana state laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18: (December 1992).

§2303. Permit

An out-of-state pharmacy dispensing and delivering prescription medications and devices to Louisiana residents shall be required to have a pharmacy permit issued by the board for that portion of its pharmacy operation.

A. *Permit Fees.* An out-of-state pharmacy annual permit fee shall be determined by the legislature and/or the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18: (December 1992).

§2305. Pharmacy Permit

An out-of-state pharmacy transacting business in Louisiana by dispensing and delivering prescription medications and devices to Louisiana residents shall maintain a pharmacy permit in good standing in its home state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18: (December 1992).

§2307. Applicable Laws and Regulations

A. Louisiana pharmacy laws and regulations shall be applicable to control interstate prescription commerce governing the practice of pharmacy for that portion of the Louisiana pharmacy practice or operation.

B. Pharmacist. The pharmacist-in-charge and all other pharmacists performing pharmacist-only functions in Louisiana permitted out-of-state pharmacies must be currently licensed and in good standing in the state in which they are practicing.

C. Compliance. The pharmacist-in-charge and/or pharmacy owner(s), or partners, or a corporate officer appearing for the permittee, where applicable, shall be responsible for compliance with Louisiana laws and regulations insofar as the standards of practice for the pharmacy operation pertaining to the provisions of receiving, dispensing, and delivering prescription medications and devices to Louisiana residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18: (December 1992).

§2309. Reporting

The pharmacist-in-charge shall submit an affidavit with the initial permit application and/or renewal applications annually which shall affirm that the pharmacist understands Louisiana pharmacy laws and regulations and that the pharmacy is in compliance with applicable standards of pharmaceutical care when dispensing and delivering prescription medications and devices to Louisiana residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18: (December 1992).

§2311. Inspection

A. Administrative Inspection. Louisiana pharmacy inspectors may conduct on-site periodic routine inspections during reasonable business hours of out-of-state pharmacies permitted to dispense and deliver prescription medications and devices to Louisiana residents, or

B. Contractual Inspection. Alternatively, the Board of Pharmacy may contract with the respective out-of-state boards of pharmacy to conduct and perfect periodic routine inspections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18: (December 1992).

§2313. Records

Prescription records, documenting prescriptions delivered and distributed to Louisiana residents, shall be identifiable, readily retrievable and available for board review. Records must be maintained for not less than five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18: (December 1992).

§2315. Counseling Services

Out-of-state pharmacies shall provide accessible toll-free telephone counseling service with a licensed pharmacist for patients' drug inquiries during regular working hours. Readily available telephone counseling service shall be provided that is consistent with the standard of due care. The pharmacy telephone number will be prominently identified and affixed on the prescription container label.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18: (December 1992).

§2317. Jurisdiction

Out-of-state pharmacies soliciting, receiving, and dispensing and delivering prescription medications and devices comprising legend drugs and schedule controlled drug substances as defined in 21 UCS 1 et seq., and 21 USCFR 1 et seq., (1986) and delivered to residents in Louisiana constitutes doing business in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18: (December 1992).

§2319. Agent

The out-of-state pharmacies doing business in Louisiana by dispensing and delivering prescription medications and devices to Louisiana residents shall designate a resident agent and a registered office in Louisiana for the service of process as provided in R.S. 12:308 (1986).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18: (December 1992).

Howard B. Bolton
Executive Director

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code, Day Care Centers and Residential Facilities (Chapter XXI)

The Department of Health and Hospitals, Office of Public Health has amended and reenacted the entire Chapter XXI (Day Care Centers and Residential Facilities) of the State Sanitary Code. This reenactment is necessary to ensure protection of the health and safety of persons in the custody of day care centers and residential facilities in the state. Chapter XXI shall read as follows:

Chapter XXI

Day Care Center and Residential Facilities

21:001. Definitions:

Day Care Centers—includes adult and child day care centers.

Adult Day Care Center—any place or facility, operated by any person for the primary purpose of providing care, supervision and guidance of 10 or more people 18 years and older, not related to the caregiver and unaccompanied by parent or guardian, on a regular basis, for a total of at least 20 hours in a continuous seven-day week in a place other than the person's home.

Child Day Care Center—any place or facility, operated by any person for the primary purpose of providing care, supervision and guidance of seven or more children under the age of 18, not related to the caregiver and unaccompanied by parent or guardian, on a regular basis, for a total of at least 20 hours in a continuous seven-day week in a place other than the children's home. A day care center that remains open for more than 20 hours in a continuous seven-day week, and in which no individual child remains for more than 24 hours in one continuous stay shall be known as a full-time day care center.

Infant—any child under the age of 12 months.

Food Preparation—any activity in which food or beverages (other than prepackaged individual servings) are cooked, processed, mixed, unpackaged or otherwise handled for service to the staff and clients of a care facility.

Preschool—any child less than five years of age.

Residential Facility—any place, facility, or home operated by any person who receives therein four or more people who are not related to such person for supervision, care, lodging and maintenance with or without transfer of custody. This shall include, but not be limited to group homes, community homes, maternity homes, juvenile detention centers, emergency shelters, halfway homes and schools for the mentally retarded.

Suitable Barrier—any gate or other device designed to exclude children which is non-climbable and not easily opened by children, with openings in the barrier no greater than 3 1/2 inches to prevent entrapment. Pantograph-type gates shall not be permitted.

General

21:002. No new facilities for institutions covered by this Chapter, shall hereafter be constructed nor shall major alterations be made to such existing facilities without the prior written approval of, and unless in accordance with plans and specifications approved in advance by, the state health officer.

21:002-1. Facilities applying for license after the effective date of this Chapter shall meet all of the requirements contained herein. Facilities licensed or with pending applications prior to the effective date shall be allowed thirty six months from the effective date to comply with the following sections: 21:003-5a); 12:003-5c) as regards temperature control; 21:003-5d); 21:005-1; 21:006; 21:020 and 21:020-2 as regards opening-sizes, heights and gates; 21:020-3. Facilities licensed or with pending applications prior to the effective date shall be allowed twelve months from the effective date to comply with the following sections: 21:007-2 and 21:010-9. Such facilities shall comply with all other requirements of this Chapter on the effective date.

21:002-2. This Chapter shall become effective on April 1, 1993.

21:003. All of the above facilities shall comply with appropriate Chapters of this Code as stated below:

21:003-1. Employee, patient, and client health shall meet the requirements of Chapter I, Section 1:008 and Chapter II, Sections 2:007 and 2:022-2:028 of this Code.

21:003-2. Child day care centers and residential facilities for children and the mentally retarded shall meet the requirements of Chapter IV of this Code.

21:003-3. Water supplies shall meet the requirements of Chapter XII of this Code.

21:003-4. Sewage disposal shall meet the requirements of Chapter XII of this Code.

21:003-5. Plumbing shall meet the requirements of Chapter XIV of this Code with the following additional provisions:

a) In child day care facilities toilets and lavatories shall be provided as follows: For pre-school children, between the ages of two-five, one for up to 15 children; two for 16-30 children; one for every additional 30 children. Fixtures shall be of size appropriate for the age of children being cared for (toilets 11 inches maximum height and lavatories 22 inches maximum height), or if standard size fixtures are used, safe, cleanable step aids shall be provided.

b) For children between pre-school and 12 years of age, one toilet for each 30 girls and one for each 60 boys. One lavatory for each 30 of each gender.

c) Handwashing and bathing facilities shall be provided with hot and cold running water. Where such water will be in direct contact with children, the temperature shall not exceed 120°F.

d) Residential facilities housing six residents or less may provide plumbing fixtures as a single family residence. All others must provide plumbing as required for dormitories.

21:004. Toilet training chairs shall be of a type which is easily cleaned and sanitized. Training "potties" shall be cleaned and disinfected immediately after each use, in a mop/utility sink or other plumbing fixture dedicated solely to that purpose, the waste being disposed of in a flushing toilet. They shall be stored in the toilet room and be accessible to children only under direct supervision. Training chairs shall not be counted as toilets in the toilet-child ratio.

21:005. Heating, cooling and ventilation shall meet the following requirements:

21:005-1. A draft free temperature of 65°F to 75°F shall be maintained during the cooler months (November - March) and a draft free temperature of 68°F to 82°F shall be maintained during the warmer months (April - October).

21:005-2. The combustion chambers of all heaters, heating systems, and other fired equipment shall be vented to the atmosphere. Other parts of the heating, cooling, and ventilating system shall be so designed, built, and maintained as to ensure that the pressure in the space from which combustion air is drawn does not become negative with respect to the atmosphere.

21:006. In day care centers, the following illumination levels shall be maintained (all measurements to be made three feet above the floor): Minimum of 50 foot-candles in all work and play areas; minimum of 10 foot-candles in hallways, stairs,

toilet rooms; maximum of 5 foot-candles in any area during napping or sleeping.

21:006-1. Shielded light fixtures or shatterproof bulbs shall be utilized in food preparation areas and in areas designated for children less than two years of age.

21:007. Bedding shall meet the following standards:

21:007-1. Each bed in every residential facility shall be separated, vertically and horizontally, by at least twenty-eight inches. In day care centers, cribs, cots and mats used for napping shall be separated by at least 18 inches with a head to foot arrangement so that no two children's heads are adjacent.

21:007-2. Cribs shall meet current federal safety standards, and industry voluntary standards. Spaces between slats shall be no more than 2 3/8 inches. Mattresses shall be of standard size so that they fit the crib frame without gaps of more than 1/2 inches. Cribs shall not be used with the drop side down. There shall be no corner post extensions (over 1/16 inch) or cutouts in the headboards.

21:007-3. Stacked cribs shall not be used.

21:007-4. Bedding such as cots, beds, cribs, or floor pads (mats) shall be maintained in a safe and sanitary manner. Linens, if provided with bedding, shall be changed when soiled and between each use by different persons. These sheets shall be changed and laundered routinely at least once each week and blankets at least once each month and immediately when soiled.

21:008. The food preparation area in day care centers and residential facilities shall meet the following:

21:008-1. Where seven or more individuals are cared for, food preparation, storage and handling shall meet all the requirements of Chapter XXIII of this code, with the following exception: where the number of individuals cared for is between seven and fifteen, the following may be provided: either a three-compartment sink as required in Chapter XXIII of this Code or an approved domestic or commercial type dishwashing machine and a two-compartment sink with hot and cold running water under pressure to each compartment.

21:008-2. Food preparation, storage and handling where six or less individuals are cared for may provide a "home-type" setting with the following: approved potable water supply, approved sewage disposal, a two-compartment sink with hot and cold running water under pressure to each compartment and an approved domestic type dishwasher, plumbing installed in accordance with Chapter XIV, adequate dry storage space for food and a refrigerator capable of maintaining a temperature below 45°F.

21:008-3. Children shall be excluded by a suitable barrier from the food preparation area.

21:008-4. In facilities where the provision of food by clients is permitted by state regulations, food brought into the facility shall have a label showing client's name and the identity of the food. Perishable food shall be refrigerated at 45°F or below. Thermometer shall be provided in each refrigerator. All foods shall be protected against contamination.

21:009. Only Grade A pasteurized milk shall be served and dispensed in accordance with Chapter XXIII, Section 23:022-1 at day care centers and residential facilities except that in facilities licensed for 30 or less, the state health officer may allow milk to be served from commercially filled containers with capacity of one-half gallon or greater. The serving of

reconstituted milk is prohibited except in making instant desserts, whipped products, or for cooking and baking purposes, as stated in Chapter XXIII, Section 23:015.

Child Day Care Centers

21:010. Written policies and procedures regarding infection control practices and disease prevention shall be developed by each center which include the following:

21:010-1. Staff and children shall wash their hands at least at the following times: upon entering the center, before preparing or serving meals, after toileting or changing diapers, before and after eating meals or snacks, and anytime hands become soiled with body fluids (urine, stool, saliva, blood, nasal discharge).

21:010-2. Procedures shall ensure that staff teach use of running water, soap, and single use of disposable towels. Hands shall be washed and scrubbed for at least 10 seconds with soap and running water. Warm running water in sinks is required.

21:010-3. Weekly monitoring by the center director shall ensure that handwashing and cleaning procedures are followed as specified in the center's plan.

21:010-4. Noses shall be blown or wiped with disposable, one-use tissues that are discarded in a plastic-lined and covered garbage container.

21:010-5. Draining or oozing cuts or sores shall be covered.

21:010-6. Child care personnel shall adopt routine procedures for handling blood and blood-containing fluids and wound exudates of all children in the center.

a) For spills of vomitus, urine, and feces, floors, walls, bathrooms, table tops, toys, kitchen counter tops, and diaper-changing tables shall be cleaned and disinfected.

b) For spills of blood or blood-containing body fluids and injury and tissue discharges, the area shall be cleaned and disinfected. Gloves shall be used in these situations unless the amount of blood or body fluid is so small that it can easily be contained by the material used for cleaning.

c) Persons involved in cleaning contaminated surfaces avoid exposure of open skin sores or mucous membranes to blood or blood-containing body fluids and injury or tissue discharges by using gloves to protect hands when cleaning contaminated surfaces.

d) Mops shall be cleaned, rinsed in sanitizing solution and then wrung as dry as possible and hung to dry.

e) Blood-contaminated material and diapers shall be disposed of in a plastic bag with a secure tie.

21:010-7. The day care center director shall exclude from care any child with the following illnesses or symptoms based on potential contagiousness of the disease. Periods may be extended beyond this depending upon individual conditions.

ILLNESS/SYMPTOM	EXCLUDE UNTIL
Meningococcal disease (Neisseria meningitis)	Well and proof of non-carriage ¹
Hib disease (Hemophilus influenza)	Well and proof of non-carriage ¹

ILLNESS/SYMPTOM	EXCLUDE UNTIL
Diarrhea (two or more loose stools or over and above what is normal or that child))	Diarrhea resolved or is controlled (contained in diaper or toilet)
Fever of unknown origin 100 F oral or 101 F rectal or higher) and some behavioral signs of illness.	Fever resolved or cleared by child's physician/health department
Chickenpox	Skin lesions (blisters) all scabbed over
Hepatitis A	One week after illness started and fever resolved
AIDS (or HIV infection)	Until child's health, neurologic development, behavior, and immune status is deemed appropriate (on a case-by-case basis) by qualified persons, including the child's physician ² , chosen by the child's parent or guardian and the center director.
Undiagnosed generalized rash	Well or cleared by child's child's physician as non-contagious
Any child with a sudden onset of vomiting, irritability or excessive sleepiness	Evaluated and cleared by child's physician

¹Proof of non-carriage; either by completion of appropriate drug regimen of Rifampin (2 day course for meningococcal disease, 4 day course for Hib disease) or by a negative throat culture obtained after completion of treatment of meningitis.

²These persons should include the child's physician and other qualified individuals such as the center director, a representative of the Office of Public Health and a child development specialist and should be able to evaluate whether the child will receive optimal care in the specific program being considered and whether an HIV-infected child poses a potential threat to others.

With most other illnesses, children have either already exposed others before becoming obviously ill (e.g., colds) or are not contagious one day after beginning treatment (e.g., strep throat, conjunctivitis, impetigo, ringworm, parasites, head lice, and scabies). The waiting periods required after the onset of treatment vary with the disease. Check with your local health department for information on specific diseases. Children who are chronic carriers of viral illnesses such as cytomegalovirus (CMV) and Herpes simplex can and should be admitted to day care centers.

The parent or designated person shall be notified as soon as possible if a child develops symptoms of illness or suffers an accident while in care.

21:010-8. Guidelines shall be developed regarding biting behavior, treatment of bites, and notification to parents of the children (if injury requires first aid or medical attention).

21:010-9. Each child care employee shall receive a three hours of training per year on infectious diseases, health and safety and/or food service preparation. Whenever possible, this training should be provided during regular working hours.

21:011. Indoor environmental surfaces associated with children's activities and objects handled by children shall be cleaned when soiled and at least on the following basis:

a) Table tops and objects handled by children such as washable toys shall be cleaned at least once weekly. Items that children may place in their mouths shall be washed and sanitized at least daily. Soft, non-washable toys shall be limited to personal use items brought from home that are not shared between children.

b) All walls and ceilings shall be of a light color that readily shows soil. Walls, ceilings, and other surfaces shall be maintained in good repair and in a clean condition; not able to visibly contaminate cold rinse water.

c) Floors, except those carpeted, shall be vacuumed or swept, and mopped with a disinfecting solution at least daily and when soiled. Soiled mop water shall be disposed of immediately after use. Stored mops shall be hung.

d) Carpeted floors and large throw rugs which cannot be washed, shall be vacuumed at least daily and shampooed at least every three months and when soiled.

e) Toilet rooms and fixtures shall be cleaned and disinfected at least daily and shall be in good repair. Toilet rooms shall have walls, floors and ceilings of a smooth, easily cleanable finish, and shall be painted a light color. These rooms must be ventilated by means of a ventilation system in compliance with Chapter XIV.

f) Potty chairs and diaper changing surfaces shall be cleaned and disinfected after each use.

g) Any object or surface contaminated by bodily fluids (e.g. urine, feces, blood, wound or tissue exudate) shall be cleaned immediately and disinfected with a fresh solution of household bleach diluted 1/4 cup in one gallon of water made fresh every 24 hours.

h) Soap and separate paper towels will be provided at handwashing sinks.

21:012. Coat hooks spaced at least 12 inches apart, or individual cubicles or lockers, child's height shall be provided for storage of clothing and personal possessions of the children.

21:013. All areas accessible to children shall be free of toxic or hazardous materials and conditions:

21:013-1. Cleaning materials, detergents, aerosol cans, pesticides, health and beauty aids, poisons, and other toxic materials shall be stored in their original labeled containers and shall be used only in a manner that will not contaminate play surfaces, food, food preparation areas, or constitute a hazard to the children. When not in actual use, such materials shall be kept in a locked place inaccessible to children and stored separately from medications and food. Matches and lighters shall be inaccessible to children.

21:013-2. All medications will be kept in a locked cabinet.

21:013-3. Poisonous or potentially harmful plants on the premises shall be inaccessible to children.

21:013-4. No pets shall be maintained on the premises except aquarium fish if they are kept out of the reach of children or animals to aid the disabled.

21:013-5. Electrical outlets accessible to the children shall be covered with child resistant covers or be of the child-proof type.

21:013-6. All stair cases must be provided with suitable barriers to prevent access by children. All porches and decks where children are allowed to play must be provided with suitable barriers to prevent falls.

21:013-7. Smoking shall not be permitted in indoor areas of the child care facility.

21:013-8. Premises shall be maintained free of insect, rodent or other pest infestations or haborages. Application of any pesticide shall not be done when children are present. No restricted use pesticides shall be stored or used on the premises unless by properly licensed persons.

21:013-9. Open containers such as mop buckets shall not be left unattended.

21:014. Openings to the outside shall be protected against the entrance of flies or other flying insects by outward opening, self-closing doors, closed windows, screening or other effective and approved means.

21:015. Each foundation, floor, wall, ceiling, roof, window, exterior door, and basement shall be free from openings which may permit the entry of rodents.

21:016. Each center shall be provided with a designated area for the care of a child who needs to be separated from the group due to injury, illness or the need for additional rest. This areas shall be located so the child may be supervised. Toilet and lavatory facilities shall be accessible readily. If the child under care is suspected of having a communicable disease, all equipment used by the child shall be cleaned and sanitized after use. This area may be used for other purposes when not needed for the separation and care of a child or if the uses do not conflict.

21:017. All formula bottles for those children still on bottles must be properly designated with the particular child's name attached to the bottle. These formulas are to be brought in bottles with caps and tops and shall immediately be placed under refrigeration by the operator. When bottles are emptied, they must be promptly cleaned and any bottles to be reused must be properly sterilized.

21:018. In child care centers, infants shall be cared for in an area separated by a suitable barrier from older children. Activities which bring infants and older children in contact with each other shall be limited.

21:019. A diaper changing table shall be provided in those centers that accept children in that age group. Children shall be diapered or have soiled underwear changed in the diaper changing area. The changing area shall never be located in food preparation areas and shall never be used for temporary placement of food.

21:019-1. Changing tables shall have an impervious surface and be kept in good repair. Tables shall be sturdy, adult-height, and shall be equipped with railings.

21:019-2. Changing tables shall be disinfected after each use by washing to remove visible soil followed by wiping with an approved disinfecting solution (e.g., 1/4 cup of liquid chlorine bleach per one gallon of water made fresh every 24 hours). Disposable, non-absorbent paper sheets approved by the health department for this purpose may be used and shall be discarded immediately after each diapering.

21:019-3. Conveniently located, washable, plastic-lined, covered receptacles operated by a foot pedal shall be provided for soiled diapers; separate from a similar covered receptacle for burping cloths and linen and shall be placed out of children's reach.

21:019-4. A handwashing sink shall be in or adjacent to each diapering area.

Outdoor Play Areas

21:020. The outdoor play area shall be enclosed with a fence or natural barriers. The barrier shall be at least four feet in height and the bottom edge shall be no more than 3 1/2 inches off the ground. There shall be at least two exits from such areas with at least one remote from buildings. Gates shall be equipped with self-closing and positive self-latching closure mechanisms. The latch or securing device shall be high enough or of a type that cannot be opened by small children.

The openings in the fence shall be no greater than 3 1/2 inches to prevent entrapment. The fence shall be constructed to discourage climbing, at least equivalent to a chain link fence.

21:020-1. Outdoor areas shall be kept free of excessive dust, weeds, brush, high grass, debris, and standing water.

21:020-2. Outside play areas shall be free from unprotected swimming and wading pools (both in-ground and above-ground, ditches, quarries, canals, excavations, fish ponds or other bodies of water. All water hazards shall be enclosed with a fence which is at least five feet high and comes within 3 1/2 inches of the ground with no openings of greater than 3 1/2 inches.

21:020-3. All pieces of playground equipment with play surfaces four feet or higher from the ground, shall have an appropriate energy absorptive surface such as wood chips at a depth of 8-10 inches or rubber mats manufactured for such use meeting A.S.T.M. Standard F-355, under the fall zone of the equipment.

21:020-4. Sandboxes shall be constructed to permit drainage, and shall be covered when not in use and be kept free from cat or other animal excrement.

Swimming Pools

21:021. Outdoor swimming pools associated with children's activities shall be rendered safe and free of hazards.

21:021-1. Water in swimming and wading pools used by children shall be maintained between pH 7.2 and pH 8.2. The water shall be disinfected by available free chlorine greater than 0.4 parts per million or an equivalent disinfectant as approved by the state health officer. Swimming pools shall be maintained in a clean condition and the chlorine level and pH level shall be tested in accordance with Chapter XXIV of this Code. Wading pools shall be testing every two hours during use periods. The results of these tests will be posted in a log for review by the state health officer.

21:021-2. Water temperature shall be maintained at no less than 82°F and no more than 93°F while in use.

J. Christopher Pilley
Secretary

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code Yellow Fever Vaccination Centers Certification (Chapter II)

In accordance with R.S. 40:5 (General Powers and Jurisdiction), the Department of Health and Hospitals, Office of Public Health, Epidemiology Section has adopted policies and procedures by which non-federal medical facilities may be approved as official yellow fever vaccination centers, and by which health professional persons, not now required to report diseases, are required to report diseases.

CHAPTER II

THE CONTROL OF DISEASES

2:001 Definitions: Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the Sanitary Code and all other Chapters which are adopted or may be adopted, are defined for the purposes thereof as follows:

Carrier — A person, who without apparent symptoms of a communicable disease, harbors the specific infectious agent and may serve as a source of infection. The carrier state may occur with infections inapparent throughout their course, and also as a feature of incubation period, convalescence, and post-convalescence of a clinically recognizable disease.

Case — A particular instance of disease.

Communicable Disease — An illness due to a specific infectious agent or its toxic products, which arises through transmission of that agent or its products from a reservoir to susceptible host, either directly as from an infected person or animals, or indirectly through the agency of an intermediate plant or animal host, a vector or the inanimate environment.

Contact — Any person who has been in such association with an infected person or animal or with a contaminated environment as to have had opportunity to acquire the infection.

Isolation — The separation for the period of communicability of infected persons from other persons, in such places and under such conditions as will prevent the direct or indirect conveyance of the infectious agent from infected persons to persons who are susceptible or who may spread the agent to others.

Quarantine — The limitation of freedom of movement of such well persons or domestic animals as have been exposed to a communicable disease for a period of time equal to the longest usual incubation period of the disease, in such manner as to prevent effective contact with those not so exposed.

Reportable Disease — A reportable disease is any disease or condition for which an official report is required by the state health officer.

2:002 Reporting: Those diseases to be reportable will be publicly declared by the state health officer and when any disease is so declared to be a reportable disease, the regulation herein provided shall apply thereto. The state health officer may, at his discretion, from time to time, by public notice, add to or delete from the list of reportable diseases. When a disease is added to the list, the regulations herein pertaining to the reporting of disease shall apply to said disease.

2:003 The following diseases are hereby declared reportable:

Acquired Immune Deficiency Syndrome	Malaria
Amebiasis	Measles (rubeola)*
Anthrax	Meningitis, (Hemophilus)
Aseptic meningitis	Meningococcal infection (including meningitis)*
Blastomycosis	Mumps
Botulism*	Mycobacteriosis, atypical***
Brucellosis	Ophthalmia neonatorum**
Campylobacteriosis	Pertussis (whooping cough)
Chancroid**	Plague*
Cholera*	Poliomyelitis
Chlamydial infection**	Psittacosis
Diphtheria*	Rabies (animal and human)
Encephalitis (specify primary or post-infectious)	Rocky Mountain Spotted Fever
Erythema infectiosum (Fifth Disease)	Rubella (German measles)*
Foodborne illness*	Rubella (congenital syndrome)
Genital warts**	Salmonellosis
Gonorrhea**	Shigellosis
Granuloma Inguinale**	Syphilis**
Hepatitis, Viral (specify type)	Tetanus
Herpes (genitalis/neonatal)**	Trichinosis
Legionellosis	Tuberculosis***
Leprosy	Tularemia
Leptospirosis	Typhoid fever
Lyme Disease	Typhus, murine (fleaborne, endemic)
Lymphogranuloma Venereum**	Vibrio infections (excluding cholera)
	Yellow fever*

Report cases on green EPI-2430 card unless indicated otherwise below.

*Report suspected cases immediately by telephone. In addition, all cases of rare or exotic communicable diseases and all outbreaks shall be reported.

**Report on STD-43 form. Report cases of syphilis with active lesions by telephone.

***Report on CDC 72.5 (f. 5.2431) 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 (504) 568-5005.

OTHER REPORTABLE CONDITIONS

Cancer	Severe under nutrition
Complications of abortion	(severe anemia, failure to thrive)
Congenital hypothyroidism	Sickle cell disease (newborns)
Lead poisoning	Spinal cord injury****
Phenylketonuria	Sudden infant death syndrome (SIDS)
Reye Syndrome	
Severe traumatic head injury****	

****Report on DDP-3 form; preliminary telephone report from emergency room encouraged {(504) 568-2509}.

2:004 It is hereby made the duty of every physician practicing medicine in the State of Louisiana to report to the state health officer, through the health unit of the parish or municipality wherein such physician practices, any case or suspected case of reportable disease or condition which he or she is attending, or has examined, or for which such physician has prescribed. The report shall be made promptly at the time the physician first visits, examines or prescribes for the patient, and such report shall state the name, age, sex, race, usual residence, place where the patient is to be found, the nature of the disease or condition and the date of onset.

2:005 Any physician, whether Louisiana resident or non-resident, engaged in the practice of medicine at any federal installation or on any vessel, train or other common carrier, which enters any port, station or place in the State of Louisiana, is required to report as specified in Section 2:004.

2:006 It shall be the duty of every osteopath, coroner, medical examiner, dentist, homeopath, infection control practitioner, medical records director, nurse, nurse midwife, nurse practitioner, pharmacist, physician assistant, podiatrist, social worker, veterinarian, and any other health care professional to report a confirmed case of reportable disease as specified in Section 2:003 in which he or she has examined or evaluated, or for which he or she is attending or has knowledge.

2:007 It shall be the duty of every parent, guardian, householder, attendant or other in charge, principal of a public or private school, operator of a day care center or residential facility (public or private) to report a case of reportable disease in his household or school to the state health officer through the health unit of the parish in which the house or school is located, when he or she knows or reasonably believes that the disease is one which legally must be reported, except when he or she knows or reasonably believes that a physician, presumed to have already reported the case, is in attendance.

2:008 The director of every laboratory whether public, private, hospital or other, where specimens are examined for the purpose of confirming or aiding in the diagnosis of a communicable disease, shall report to the state health officer all reactive serologic tests for syphilis, microscopic findings of *TREPONEMA PALLIDUM* and the results of tests which either confirm or suggest the occurrence of reportable diseases as specified in Section 2:003. Such reports shall be submitted within 72 hours after the completion of the reportable test and shall contain the name of the physician or person submitting the specimen; the name, age, sex, race and address of the person

from whom the specimen was obtained, and the name and degree of reactivity of the test performed.

Persons submitting specimens for reportable laboratory tests are required to supply the laboratories with sufficient information to comply with the provisions of this Section. Laboratory reports shall not be construed as diagnosis. In the case of private patients, follow-up of laboratory reports shall be through the physician(s) submitting the specimen(s).

2:009 Investigations: The state health officer may immediately upon receiving notification of any communicable disease, investigate as the circumstances may require for the purpose of verification of the diagnosis, to ascertain the source of the causative agent, to disclose unreported cases and to reveal susceptible contacts if such information is required to prevent a serious health threat to the community. The decision of the state health officer as to the diagnosis shall be final, for administrative purposes.

2:010 The state health officer is hereby empowered and it is made his or her duty whenever a case of communicable disease occurs, to obtain laboratory specimens of body tissues, fluids or discharges and of materials directly or indirectly associated with the case as may be necessary or desirable in confirmation of the diagnosis or for ascertaining the source of the infection when acceptable laboratory and medical reports are not available. Whenever laboratory tests are required for the release of cases or carriers or suspected cases or carriers, the state health officer shall be satisfied that a sufficient number of specimens are examined, that the specimens are authentic and are examined in an acceptable laboratory.

2:011 Individuals suspected of being cases or carriers of a communicable disease, or who have been exposed to a communicable disease, and who in the opinion of the state health officer may cause serious threat to public health, shall either submit to examination by a physician and to the collection of appropriate specimens as may be necessary or desirable in ascertaining the infectious status of the individual, or be placed in isolation or under quarantine as long as his or her status remains undetermined. Specimens collected in compliance with this Section shall be examined either by a state laboratory free of charge or by a laboratory approved by the state health officer at the individual's own expense.

2:012 Custodians of medical records on patients known or suspected of being cases or carriers of a communicable disease, shall make such records available for review by the state health officer.

2:013 No person shall interfere with or prevent the entrance to or examination of any house, building, trailer, camp, train, airplane, bus, steamship, or other watercraft, or any abode, by the state health officer where a case of communicable disease is either suspected or reported to exist.

2:014 Control Measures: It shall be the duty of the state health officer or his or her duly authorized representative to promptly institute necessary control measures whenever a case of communicable disease occurs.

2:015 The state health officer or his or her duly authorized representative is hereby empowered and it is made his or her duty, whenever a case of communicable disease occurs in any

household or place, and it is in his or her opinion, necessary or advisable that persons residing therein shall be kept from contact with the public, to declare the house, building, apartment, room, or place where the case occurs, a place of quarantine, and to require that only persons so authorized by the state health officer shall leave or enter said quarantined place during the period of quarantine.

2:016 Whenever a disease of international or interstate epidemic significance occurs in any community within or outside the state of Louisiana, the state health officer shall, if in his or her opinion, it is necessary, proclaim and institute a quarantine of the locality in which the said disease prevails and shall formulate and publish rules and regulations to carry out such quarantine effectively; which rules and regulations shall have the same force and authority as this Code and shall remain in force until rescinded by proclamation of the state health officer.

2:017 It is a violation of this Code for any person to enter or leave any quarantined area in the state of Louisiana, or to enter from any quarantined area without the state of Louisiana except by permission of the state health officer.

2:018 No person shall interfere with, conceal, mutilate or tear down any notices or placard placed on any house, building, or premises by the state health officer. Such placards shall be removed only on authority of the state health officer.

2:019 Whenever in the judgment of the state health officer, it is necessary to protect the public health against a serious health hazard, the state health officer may take complete charge of any case of communicable disease occurring therein and may carry on such measures to prevent its spread as he or she may believe necessary and as are provided for by this Code.

2:020 It shall be the duty of the attending physician, midwife, nurse or other person in attendance on a parturient person to use prophylactic measures at the time of delivery to prevent ophthalmia neonatorum, such as the instillation into both eyes of the newborn a one percent solution of nitrate of silver, a one-half percent erythromycin ophthalmic ointment or drops, a one percent tetracycline ophthalmic ointment or drops, all in single dose or single use containers, or an equally efficient agent, as determined by the state health officer. This duty is waived if the newborn has no evidence of ophthalmia neonatorum and the mother of the newborn states in writing that she objects to the application of such prophylactic agent on religious grounds.

Health Examinations of Employees and Patients at Day Care Centers and Residential Facilities

2:021 Employee Health: The requirements of Chapter I, Section 1:008 shall be met.

2:022 All persons prior to or at the time of employment at any facility requiring licensing by the Department of Health and Hospitals or any day care center shall be free of tuberculosis in a communicable state as evidenced by either (1) a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, (2) a normal chest X-ray, if the skin test is positive, or (3) a statement from a licensed physician certifying that the individual is non-infectious if the X-ray is other than normal.

2:023 Any employee at any facility requiring licensing by the Department of Health and Hospitals or any day care center who

has a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, in order to remain employed, shall complete an adequate course of preventative chemotherapy prescribed by a licensed physician, or present a signed statement from a physician stating that preventative chemotherapy is not indicated.

2:024 Any employee of any facility requiring licensing by the Department of Health and Hospitals or of any day care center who has a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, in order to remain employed shall be retested annually as long as the purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, remains negative. Any employee converting from a negative to a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, shall be referred to a physician and followed as indicated in Section 2:024.

2:025 Any child 18 years or under admitted to any day care center or residential facility shall have verification that the child has had all appropriate immunizations for age of the child according to the Office of Public Health schedule unless presenting a written statement from a physician stating that the procedure is contraindicated for medical reasons, or a written dissent from parents. The operator of any day care center shall report to the state health officer through the health unit of the parish or municipality where such day care center is located any case or suspected case of reportable disease. Health records, including immunization records, shall be made available during normal operating hours for inspection when requested by the state health officer. When an outbreak of a communicable disease occurs in a day care center or residential facility the operator of said day care center or residential facility shall comply with outbreak control procedures as directed by the state health officer.

2:025-1 On or before October 1 of each year, the operator of each day care center, nursery school, or residential facility enrolling or housing any child 18 years or under, shall submit a preliminary immunization status report of all children enrolled or housed as of that date. Forms for submittal shall be provided by the state health officer, and shall include identifying information for each child, and for each dose of vaccine received by the child since birth. Any child exempt from the immunization requirement shall also be identified, and the reason for exemption given on the form. After review of the form(s) by the state health officer or his or her designee, the day care center, nursery school, or residential facility operator will notify, on or before December 31 of each year, the parent or guardian of all enrolled or housed children, who are not compliant, with the immunization requirements of Section 2:026 of this Code.

2:026 Any person (adult or child) admitted to any nursing home or other residential facility shall have a complete history and physical examination by a licensed physician within 30 days prior to or 48 hours after admission, except that any resident who has complied with this provision shall be exempt from re-examination if transferred to another residential facility provided the record of examination is transferred to the new facility. This examination shall include laboratory tests as

indicated by the history and physical examination. A purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, shall be given to all residents under 35 years of age and a purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, and a chest X-ray to all residents over 35 years of age, no more than two weeks prior to admission to any nursing home or other residential facility. A record of the admission history, physical examination, purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, chest X-ray, and laboratory tests shall be a part of the permanent record of each resident. No resident with evidence of active tuberculosis shall be admitted unless the examining physician states that the resident is on an effective drug regimen, is responding to treatment, and presents no imminent danger to other patients or employees. Any resident who is a case or an asymptomatic carrier of a communicable disease which may pose a serious risk to other patients or employees shall be admitted except under the supervision of the state health officer.

2:027 When a suspicious case or carrier of a communicable disease poses a serious public health risk, appropriate measures shall be taken to prevent the disease from spreading to other residents.

2:028 Any child under 18 years of age in any residential facility in the state shall have an annual examination by a licensed physician to determine the child's physical condition, mental condition and the presence of any indication of hereditary or other constitutional disease. Any deformity or abnormal condition found upon examination shall be entered by the physician on the medical record of the child.

2:029 Definitions:

Official Center — any nonfederal medical facility consisting of either a state, parish or municipal public health or a private clinic under full-time supervision of a physician licensed by the Louisiana Board of Medical Examiners.

Vaccination — the injection of immunizations required for international travel administered by approved centers medical personnel to an individual.

2:030 Background and Legal Authority: The International Health Regulations (IHR), Chapter II, Article 66, World Health Organization (WHO), to which the United States is signatory, require the health administration of each nation to designate centers where international travelers may be vaccinated against yellow fever. In this nation, the United States Public Health Service (USPHS) has this responsibility under executive order of the president. The vaccine must be approved by WHO, and the traveler's International Certificate of Vaccination or Revaccination against Yellow Fever must be properly validated.

2:030-1 Since September 1, 1977, the USPHS has delegated to the state and territorial health departments the responsibility of designating and supervising non-federal yellow fever vaccination centers within their respective jurisdictions. Criteria for categories of facilities to be designated are determined by the state and territorial health departments. State and territorial health departments issue and control the uniform stamps which may be used to validate international certificates of vaccination or revaccination against yellow fever.

2:031 Regulations: The following is a list of regulations of the

Louisiana Department of Health and Hospitals, developed by the Office of Public Health, in conjunction with the USPHS Centers for Disease Control, Quarantine Division for non-federal facilities given the responsibility for administering and validating international certificates of vaccination or revaccination against yellow fever.

2:031-1 Any facility designated as a yellow fever vaccination center and issued a uniform stamp to validate international certification of vaccination against yellow fever shall be either a state, parish or municipal public health or a private medical clinic under full time supervision of a physician licensed by the Louisiana Board of Medical Examiners. The supervising physician must be fully knowledgeable of the procedures necessary for issuing a valid document. Written instructions with illustrations are included in *Health Information for International Travel* issued annually as a supplement to the Morbidity and Mortality Weekly Report of the Centers for Disease Control. Possession of a current book is mandatory for all approved centers.

2:031-2 The Uniform Stamp

a) Is the property of the Office of Public Health and must be returned upon request via registered mail within 30 days of notification of cancellation.

b) Is to be used to validate only those certificates issued by the approved non-federal medical facility.

c) Should be kept in a safe place when not in use and must not be loaned or reproduced.

2:031-3 Loss or theft of a uniform stamp must be reported immediately to the Office of Public Health which in turn shall report to the Division of Quarantine, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333.

2:031-4 Approval of and continued possession of the uniform stamp will be based on justified need and maintenance of policies compatible with the Office of Public Health guidelines. Reevaluations will be conducted semi-annually.

2:031-5 Improperly prepared certificates bearing the uniform stamp as reported by the CDC Division of Quarantine at ports of entry will be further investigated by personnel of the Office of Public Health.

2:031-6 The Office of Public Health shall maintain a listing of uniform stamps with corresponding identification codes. A duplicate listing shall be filed with the CDC Division of Quarantine.

2:031-7 The approved center shall adhere to the instructions of the Office of Public Health and the manufacturer of the vaccine regarding the transportation, handling, storage, and administration of the vaccine. The vaccine will be shipped directly from the manufacturer only to designated centers. The vaccine may not be redistributed or transported from the clinic site but must be administered at the designated center. Satellite or branch clinic sites are not considered as part of the designated center. The center must maintain adequate refrigeration to assure that the yellow fever vaccine will be kept in a frozen state until ready for administration. Once the vaccine has been thawed, it must be administered within 60 minutes. Any remaining thawed vaccine must be destroyed.

2:031-8 When a supervising physician named on the application is no longer associated with an approved center, the Office of Public Health shall be notified. Application procedures as stated

below must be completed by the new replacement supervising physician.

2:031-9 Approved centers are required to keep records of persons whose International Certificates of Vaccination or Revaccination against Yellow Fever are validated and to submit periodic (six months) reports covering operations to the Office of Public Health. All designated centers are required to report adverse reactions to yellow fever vaccine of sufficient severity to require medical attention.

Adverse reactions or other complications occurring within 30 days of the receipt of the vaccine shall be reported:

- a. neurologic reactions - Meningitis, encephalitis, polyneuropathy, Guillain-Barre syndrome, paralysis;
- b. allergic reactions - Urticaria, asthma, angioneurotic edema, erythema multiforme, anaphylaxis, other;
- c. other post vaccination complications - acute febrile illness with headache, malaise, arthralgia, or jaundice.

2:031-10 International Certificates of Vaccination must conform to International Health Regulations, Chapter III, Article 79, World Health Organization.

2:031-11 The approved center shall develop, implement and maintain a procedure for handling emergencies due to severe vaccine reactions such as anaphylaxis, including the maintenance of necessary supplies and medicine to provide life support until patient can be transferred safely to an acute care facility.

2:031-12 The state health officer may order additional procedures to ensure compliance with the provision of these regulations and reserves the authority to enforce any regulation not so specified in this rule that is considered to be medically significant in the operation of such clinics.

2:031-13 The supervising physician is responsible for his or her practices regarding administration of immunizations.

2:031-14 Proper infectious waste handling and disposal shall be done in accordance with the Louisiana Sanitary Code, Chapter 27.

2:032 Application Procedures: To request designation as an approved yellow fever center call or write to the Office of Public Health, Epidemiology Section, P.O. Box 60630, New Orleans, Louisiana 70160 (504-568-5005) and request an application form. After receipt of a completed application form, DPH personnel will conduct an on-site inspection of the clinic facilities utilizing an instrument developed by the Office of Public Health for this purpose. A report will then be forwarded along with the completed application to the state health officer for approval/disapproval. If approved, the designated center, the Division of Quarantine, Centers for Disease Control, and the vaccine manufacturer shall be notified in writing. The uniform stamp is then issued using the supervising physician's state medical license number for identification. Any facility whose request for approval is denied may appeal the denial after conditions which resulted in a denial of approval have been verifiably modified to bring the center into conformity with established regulations. The facility has 30 days after receipt of the denial in which to appeal in writing to the state health officer, Office of Public Health, P.O. Box 60630, New Orleans, Louisiana 70160.

J. Christopher Pilley
Secretary

RULE

Department of Health and Hospitals
Office of the Secretary
Department of Social Services
Office of The Secretary

Community and Family Support System Cash Subsidy
(LAC 48:I.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of the Secretary, has amended regulations pursuant to the cash subsidy payments under the program entitled Community and Family Support System.

Title 48

PUBLIC HEALTH GENERAL

Part I. General Administration

Subpart 7. Community and Family Support System

Chapter 1. Community and Family Support System Cash Subsidy

§103. Definitions

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F. *Individualized Education Program (IEP)*—a written educational plan for each child with a disability which is developed in a meeting by a representative of the local educational agency, the teacher, the parents or guardian of such child, and that child, whenever appropriate.

G. *Individualized Family Services Plan (IFSP)*—a written plan for providing early intervention services for Childnet eligible children and their families.

H. *Interagency Service Coordination (ISC) Process*—the interagency process in cooperation with the Child and Adolescent Service System Program (CASSP) which involves children and their families in a multidisciplinary case review to generate a family service plan which assures appropriate and coordinated care for those children with severe emotional and behavioral impairments who are not adequately served by the routing services of a single agency and therefore require extensive interagency collaboration.

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K. *Licensed mental health professional*—a person credentialed to provide mental health services by a professional board established and approved by the State of Louisiana, including those boards which examine physicians (psychiatrists), psychologists, social workers, counselors, nurse practitioners, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, and by the Department of Social Services, Office of the Secretary, LR 18:185 (February, 1992), amended LR 18: (December 1992).

§107. Application Procedures and Waiting List for Cash Subsidy

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E. To be deemed complete, applications must be signed by the parent and the following supporting documents must accompany the application:

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4. The following documentation will be accepted to complete the application for Behavior Disorder/Emotional Disturbance, even if in the absence of a 1508 evaluation identifying this as an exceptionality: A treatment plan from a licensed community mental health center; or, evidence of present participation of child/family in an Interagency Service Coordination (ISC) process; or, an evaluation report from a private licensed mental health professional and indication that the criteria for Emotional/Behavioral Impairment (EBI) in Department of Education Bulletin 1508 have been met.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, and by the Department of Social Services, Office of the Secretary, LR 18:185 (February,1992), amended LR 18: (December 1992).

§115. Cash Subsidy Payment Procedures

The cash subsidy payment is provided for the purpose of assisting families in meeting those needs and extraordinary expenses that enable their child to remain at home and to keep the family intact. Families will sign an annual statement stating that the subsidy funds are used for the special needs of the family, but will not be required to document expenses.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department Health and Hospitals, Office of the Secretary, and by the Department of Social Services, Office of the Secretary, LR 18:185 (February,1992), amended LR 18: (December 1992).

Christopher Pilley
Secretary
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RULE

Department of Health and Hospitals Office of the Secretary

Informed Consent

As authorized by R.S. 40:12919.40E, as enacted by Act 1093 of 1990 and later amended by Act 962 of 1991, the Department of Health and Hospitals, Louisiana Medical Disclosure Panel, is adopting rules which require what risks must be disclosed under the Doctrine of Informed Consent to patients undergoing medical treatments or procedures and the Consent Form to be signed by the patient and physician before undergoing any such treatment or procedure.

Female Genital System Treatments and Procedures:

A. Abdominal hysterectomy. (Removal of Womb Resulting in Sterility):

1. Uncontrollable leakage of urine.
2. Injury to bladder.
3. Death.
4. Injury to the tube (ureter) between the kidney and the bladder.
5. Injury to the bowel and/or intestinal obstruction.
6. Infection.
7. Damage to major blood vessels, hemorrhage, need for transfusion of blood products.
8. Painful intercourse.
9. Ovarian failure requiring hormone administration.
10. Pulmonary embolism (blood clot from pelvis or legs that moves to lungs).
11. Formation of fistula (leakage of urine or bowel contents through vagina).
12. Unsatisfactory sexual function.
13. Bleeding.
14. Failure of wound to heal.
15. Permanent and disfiguring scarring.

B. Vaginal hysterectomy. (Removal of Womb Resulting in Sterility)

1. Uncontrollable leakage of urine.
2. Injury to bladder.
3. Death.
4. Injury to the tube (ureter) between the kidney and the bladder.
5. Injury to the bowel and/or intestinal obstruction.
6. Infection.
7. Damage to major blood vessels, hemorrhage, need for transfusion of blood products.
8. Painful intercourse.
9. Ovarian failure requiring hormone administration.
10. Pulmonary embolism (blood clot from pelvis or legs that moves to lungs).
11. Formation of fistula (leakage of urine or bowel contents through vagina).
12. Unsatisfactory sexual function.
13. Bleeding.
14. Failure of wound to heal.
15. Permanent and disfiguring scarring.
16. Completion of operation resulting in abdominal incision.

C. All fallopian tube and ovarian surgery with or without hysterectomy, including removal and lysis of adhesions.

1. Injury to the bowel and/or bladder.
2. Sterility.
3. Failure to obtain fertility (if applicable).
4. Failure to obtain sterility (if applicable).
5. Loss of ovarian functions or hormone production from ovary(ies).
6. Injury to ureter.
7. Injury to major blood vessels, hemorrhage, need for transfusion of blood products.
8. Failure to remove entire ovary possibly requiring further surgery (Ovarian Remnant Syndrome).
9. Pulmonary embolism.

D. Abdominal endoscopy (peritoneoscopy, laparoscopy).

1. Puncture of the bowel or blood vessel.
2. Abdominal infection and complications of infection.
3. Abdominal incision and operation to correct injury.
4. Injury to bladder.
5. Injury to ureter.
6. Possible air embolus.

E. Removing fibroids (uterine myomectomy).

1. Uncontrolled leakage of urine.
2. Injury to bladder.
3. Sterility.
4. Injury to the tube (ureter) between the kidney and the bladder.
5. Injury to the bowel and/or intestinal obstruction.
6. Pulmonary embolism.

F. Uterine suspension.

1. Uncontrollable leakage of urine.
2. Injury to bladder.
3. Sterility.
4. Injury to the tube (ureter) between the kidney and the bladder.
5. Injury to the bowel and/or intestinal obstruction.
6. Painful intercourse.
7. Pulmonary embolism.

G. Removal of the nerves to the uterus (presacral neurectomy).

1. Uncontrollable leakage of urine.
2. Injury to bladder.
3. Sterility.
4. Injury to the tube (ureter) between the kidney and the bladder.
5. Injury to the bowel and/or intestinal obstruction.
6. Hemorrhage, complications of hemorrhage with additional operation.

H. Removal of the cervix.

1. Uncontrolled leakage of urine.
2. Injury to bladder.
3. Sterility.
4. Injury to the tube (ureter) between the kidney and the bladder.
5. Injury to the bowel and/or intestinal obstruction.
6. Completion of operation by abdominal incision.
7. Pulmonary embolism.

I. Repair of vaginal hernia (anterior and/or posterior colporrhaphy and/or enterocele repair).

1. Uncontrolled leakage of urine.
2. Injury to bladder.
3. Sterility.
4. Injury to the tube (ureter) between the kidney and the bladder.
5. Injury to the bowel and/or intestinal obstruction.
6. Risk of hemorrhage.
7. Risk of infection.
8. Painful intercourse.
9. Risk of formation of fistula between the urinary tract and vagina or intestinal tract and the vagina.
10. Difficulty urinating.
11. Pulmonary embolism.

J. Abdominal suspension of the bladder (retropubic urethropexy).

1. Uncontrolled leakage of urine.
2. Injury to the bladder.
3. Injury to the tube (ureter) between the kidney and the bladder.
4. Injury to the bowel and/or intestinal obstruction.
5. Painful inflammation or destruction of pubic bone (osteitis pubis).
6. Risk of infection.
7. Risk of damage to urethra.
8. Risk of difficulty urinating.
9. Pulmonary embolism.

K. Conization of cervix.

1. Hemorrhage with possible hysterectomy to control.
2. Sterility.
3. Injury to bladder.
4. Injury to rectum.
5. Failure of procedure to remove all of cervical abnormality.
6. Scar tissue formation of mouth of womb (cervical stenosis).
7. Weakening of mouth of womb resulting in miscarriage with future pregnancies (incompetent cervix).
8. Pulmonary embolism.

L. Dilation and curettage of uterus (diagnostic).

1. Hemorrhage with possible hysterectomy.
2. Perforation of the uterus.
3. Sterility.
4. Injury to bowel and/or bladder.
5. Abdominal incision and operation to correct injury.
6. Formation of scar tissue in uterine cavity (Ashermann Syndrome).

M. Dilation and curettage of uterus (obstetrical).

1. Hemorrhage with possible hysterectomy.
2. Perforation of the uterus.
3. Sterility.
4. Injury to bowel and/or bladder.
5. Abdominal incision and operation to correct injury.
6. Formation of scar tissue in uterine cavity (Ashermann Syndrome).
7. Failure to remove all products of conception.

Maternity and Related Cases:

A. Delivery (vaginal).

1. Injury to bladder and/or rectum, including a hole (fistula) between bladder and vagina and/or rectum and vagina.
2. Hemorrhage possibly requiring blood administration and/or hysterectomy and/or artery ligation to control.
3. Sterility.
4. Brain damage, injury, or even death occurring to the fetus before or during labor and/or vaginal delivery whether or not the cause is known.
5. Uterine disease or injury requiring hysterectomy.
6. Pulmonary embolus.
7. Risk of infection.
8. Possible painful intercourse.

Anesthesia:

A. Arterial Catheterization

1. Decrease in blood flow to area supplied by the artery.
2. Nerve damage.

3. Loss of or loss of function of the limb or portion of the limb supplied by the artery.

B. Central Venous and Pulmonary Artery Catheterization

1. Hemorrhage (bleeding) into the lungs, the pericardium (sac which surrounds the heart), the chest cavity and elsewhere.

2. Pericardial tamponade (compression of the heart due to accumulation of blood or fluid in the sac around the heart).

3. Cardiac arrest (heart attack).

4. Stroke.

5. Pneumothorax (lung collapse).

6. Infection.

7. Cardiac arrhythmias (irregularities of the heart rhythm).

8. Shock (severe drop in blood pressure).

9. Damage to blood vessels.

10. Damage to trachea (windpipe) and/or pharynx (throat).

11. Injury to vocal cords.

12. Distal embolization (air, fat particles or blood clots which circulate in the bloodstream until becoming lodged in a vein or artery).

13. Damage to nerves, the lymph ducts, the heart and the lungs.

14. Infusion to fluid into the chest cavity, lungs and pericardium.

C. Transesophageal Echocardiography

1. Esophageal injury.

2. Damage to teeth.

D. Epidural, spinal, regional

1. Allergic, abnormal or hypersensitivity reaction to drugs or equipment may be fatal.

2. Aspiration (inhalation) into the bronchi (airway) or lungs of stomach contents, stomach acids and foreign objects.

3. Leakage of cerebrospinal fluid.

4. Chipped or broken teeth.

5. Convulsion (seizures).

6. Epidural blood clot or abscess (bleeding or infection in the space adjacent to the spinal cord which may damage the spinal cord).

7. Broken needles or catheters which may lead to complications and necessitate additional treatment.

8. Production of an unintended high level of anesthesia which may necessitate need for artificial respirators and insertion of a breathing tube.

9. Incomplete analgesia (pain or discomfort during the procedure).

10. Injury to the lips, tongue and inside of the mouth or airway injury.

11. Laryngeal and vocal cord trauma or edema (injury to or swelling of the vocal cords).

12. Loss of bowel or bladder function or sexual function.

13. Heart attack or other heart problems.

14. Decreased blood pressure.

15. Shock.

16. Nerve damage ranging from loss of sensation to total paralysis.

17. Back pain.

18. Death.

19. Brain damage.

20. Severe headaches.

Risks and Complications of General Anesthesia:

1. Allergic, abnormal or hypersensitivity reaction to drugs or equipment, which may be fatal.

2. Aspiration (inhalation) into the bronchi (airway) or lungs of stomach contents, stomach acids and foreign objects.

3. Laryngeal and/or vocal cord trauma or edema (injury to or swelling of the vocal cords).

4. Heart attack or other heart problems.

5. Death.

6. Brain damage.

7. Shock.

8. Nerve damage ranging from loss of sensation to total paralysis.

9. Chipped or broken teeth.

10. Esophageal injury.

11. Burns.

12. Malignant hyperthermia (dangerously high fever which may result in death).

13. Injury to lips, tongue and inside of mouth or airway injury.

14. Breathing difficulties.

15. Eye injuries.

Anesthesia and Pregnancy:

List of complications which have occurred to an unborn child in association with obstetrical anesthesia includes:

1. Hypoxia or anoxia (deprivation of sufficient amounts of oxygen which, if prolonged, can cause death or brain damage).

2. Cardiac and/or respiratory depression (reduction of the heart and/or breathing rate which can lead to hypoxia or anoxia).

3. Brain damage.

4. Mental retardation.

5. Injury to body organs.

6. Seizure disorders.

7. Quadriplegia (paralysis of both arms and both legs).

8. Paraplegia (paralysis of both legs).

9. Spasticity (involuntary contraction of one or more muscles with associated loss of muscle function).

10. Meconium aspiration (drawing of meconium, a fetal waste product sometimes present in the fluid surrounding the fetus, into the lungs of the unborn child).

11. Broken bones.

12. Death.

Endocrine System Treatments and Procedures:

A. Thyroidectomy

1. Injury to the nerves resulting in hoarseness or impairment of speech.

2. Injury to parathyroid glands resulting in low blood calcium levels that require extensive medication to avoid serious degenerative conditions, such as cataracts, brittle bones, muscle weakness and muscle irritability.

3. Lifelong requirement of thyroid medication.

Nervous System Treatments and Procedures:

Spine operation, including laminectomy, decompression, fusion, internal fixation, or procedures for nerve root or spinal cord compression; spine operations for diagnosis; pain, deformity; mechanical instability; injury; removal of tumor, abscess, or hematoma (excluding coccygeal operations).

1. Pain, numbness or paralysis, or clumsiness.
2. Weakness of arms(s), hand(s), leg(s) or foot(feet) (including paraplegia [paralysis of both arms or paralysis of both legs] and quadriplegia [paralysis of all four extremities]).
3. Loss of function of bladder.
4. Loss of function of bowel.
5. Loss of sexual function.
6. Unstable spine.
7. Recurrence or continuation of the condition that required the operation.
8. Injury to major blood vessels.
9. Leakage of spinal fluid.
10. Failure to relieve pain or increase in pain.
11. Failure or breakage of internal fixation.
12. Infection.
13. Death.
14. Hemorrhage, requiring transfusion.

Oral Surgery:

A. Removal of Tooth (including impacted tooth) (An impacted tooth is under the gum or bone).

1. Infection.
2. Bleeding.
3. Failure of wound to heal.
4. Injuries to adjacent teeth and/or hard or soft tissues.
5. Paresthesia or numbness of face and/or mouth.
6. Fracture of mandible (upper jaw) or maxilla (lower jaw).
7. Opening between mouth and sinus or mouth and nose.
8. Tooth or fragment in maxillary sinus.
9. Incomplete removal of tooth.
10. Dry socket.

B. Repair or Removal of Damaged Teeth

1. Infection.
2. Bleeding.
3. Failure of wound to heal.
4. Paresthesia or numbness of face and/or mouth.
5. Loss of teeth.
6. Loss of bone.

C. Removal of Exostosis, Tori, Tuberosities (Excess Bone)

1. Infection.
2. Bleeding.
3. Failure of wound to heal.
4. Slough (Unanticipated loss of hard and/or soft tissue).
5. Paresthesia or numbness of face and/or mouth.
6. Opening between mouth and sinus or mouth and nose.
7. Injury to adjacent structures.

D. Dental Implants

1. Infection.
2. Bleeding.
3. Failure of wound to heal.
4. Permanent and disfiguring scarring.
5. Premature loss of implant and attachments.
6. Loss of bone.
7. Mobility of implant (Failure of implant to attach).
8. Paresthesia or numbness of face and/or mouth.
9. Mandibular fracture (lower jaw).
10. Injury to adjacent teeth.
11. Inability to place implant in intended site.
12. Injury of maxillary sinus.

E. Maxillary and Mandibular Osteotomies (Cutting and Movement of Jawbones)

1. Infection.
2. Bleeding.
3. Failure of wound to heal.
4. Permanent and disfiguring scarring.
5. Difficulty in mastication (chewing).
6. Malocclusion (improper bite).
7. Continued muscle pain and headaches.
8. Impaired or obstructed airway (difficulty in breathing) which might cause death.
9. Undesirable facial appearance.
10. New or continued temporomandibular joint symptoms (TMJ).
11. Nerve injury.
12. Failure of bone to heal.
13. Loss of teeth, bone or soft tissue.
14. Damage to teeth requiring additional treatment (root canal).
15. Relapse or shift of jaw structures.
16. Opening between mouth and sinus or mouth and nose.

F. Genioplasty (Chin Reconstruction), Sliding Osteotomy (Cutting and Moving the Bone), Bone Graft, Alloplast (Synthetic Implant)

1. Infection.
2. Bleeding.
3. Failure of wound to heal.
4. Permanent and disfiguring scarring.
5. Undesirable chin contour.
6. Failure of bone to heal.
7. Paresthesia or numbness of face and/or mouth.
8. Resorption of hard and/or soft tissues secondary to alloplast implant (synthetic)
9. Injury to dental structures.
10. Rejection of implant material.
11. Lip incompetence (droop of lip).

G. Surgery for Cleft Lip/Palate and Craniofacial Deformities (Repair of Defects from Birth Injury, Prior Surgery, and/or Disease)

1. Infection.
2. Bleeding.
3. Failure of wound to heal.
4. Permanent and disfiguring scarring.
5. Impaired chewing or swallowing.
6. Unstable or inadequate function of dental occlusion (bite).
7. Residual speech problems or impairment.
8. Unfavorable facial symmetry.
9. Airway impairment (difficulty in breathing) which might cause death.
10. Nerve injury - sensory or motor (feeling and function).
11. Loss of grafted or implanted materials.
12. Blood supply compromise to tissues hard and soft resulting in loss of tissues.
13. Failure of bone to heal.
14. Failure to correct deformity.
15. Opening between mouth and sinus or mouth and nose.

H. Removal of Cyst, Benign Tumors or Malignant Tumors from Jaws

1. Infection.
 2. Bleeding.
 3. Failure of wound to heal.
 4. Permanent and disfiguring scarring.
 5. Recurrence of lesion.
 6. Loss of bone which would result in facial deformity.
 7. Unanticipated loss of teeth or adjacent vital structures.
 8. Facial bone fracture.
 9. Paresthesia or numbness of face and/or mouth.
 10. Metastasis (spread of cancer if tumor is cancerous).
- I. Surgical Treatment of Facial Infection Including Drainage
1. Infection.
 2. Bleeding.
 3. Failure of wound to heal.
 4. Permanent and disfiguring scarring.
 5. Loss or damage to teeth and adjacent structures including bone.
 6. Persistence and/or spread of infection to other parts of body.
 7. Airway impairment (difficulty in breathing) which might cause death.
- J. Surgical Removal of Cysts, Benign Tumors and Stones of the Salivary Gland
1. Infection.
 2. Bleeding.
 3. Failure of wound to heal.
 4. Permanent and disfiguring scarring.
 5. Recurrence of original problem.
 6. Metastasis (spread of cancer if tumor is cancerous).
 7. Damage or loss of adjacent vital structures (salivary).
 8. Persistent problem requiring removal of gland.
- K. Temporomandibular Joint Disease (Surgery and/or Manipulation)
1. Infection.
 2. Bleeding.
 3. Failure of wound to heal.
 4. Permanent and disfiguring scarring.
 5. Failure to relieve pain.
 6. Inability to chew properly.
 7. Restriction of jaw movement.
 8. Locking of jaw joint (open or closed).
 9. Failure of alloplast (synthetic implant) to function requiring removal.
 10. Malocclusion (improper bite).
 11. Motor or sensory nerve damage (function or feeling)
 12. Damage to ear canal, cartilage, or middle ear
 13. Development of arthritis condition
- L. Surgical Repair of Mandible (Lower Jaw) Fractures
1. Infection.
 2. Bleeding.
 3. Failure of wound to heal.
 4. Permanent and disfiguring scarring.
 5. Failure of bones to heal properly.
 6. Malocclusion (improper bite).
 7. Damage to teeth or loss of teeth.
 8. Motor or sensory nerve damage (function and feeling).
- M. Surgical Repair of Maxilla (Upper Jaw) Fractures
1. Infection.
 2. Bleeding.
 3. Failure of wound to heal.
 4. Permanent and disfiguring scarring.
 5. Failure of bones to heal properly.
 6. Malocclusion (improper bite).
 7. Opening between mouth and sinus or mouth and nose.
 8. Loss of bone or teeth.
 9. Chronic sinusitis or sinus infection.
 10. Motor or sensory nerve damage (function and feeling).
 11. Telecanthus (widening of the space between the eyes).
 12. Abnormal eye movements.
 13. Abnormal vision.
 14. Difficulty breathing.
 15. Overflow of tears.
 16. Inability to smell.
- N. Surgical Correction of Soft Tissue Injuries of Face
1. Infection.
 2. Bleeding.
 3. Failure of wound to heal.
 4. Permanent and disfiguring scarring.
 5. Failure to restore appearance.
 6. Motor or sensory nerve damage (function and feeling).
 7. Salivary gland duct damage.
- Digestive System Treatment and Procedures:**
- A. Cholecystectomy (removal of the gallbladder) with or without common bile duct exploration.
1. Pancreatitis (inflammation of the gland that produces insulin).
 2. Injury to the tube (common bile duct) between the liver and the bowel.
 3. Retained stones in the tube (common bile duct) between the liver and the bowel.
 4. Narrowing or obstruction of the tube (common bile duct) between the liver and the bowel.
 5. Injury to the bowel and/or intestinal obstruction.
- Hematic and Lymphatic System:**
- A. Transfusion of blood and blood components.
1. Fever.
 2. Transfusion reaction which may include kidney failure or anemia.
 3. Heart failure.
 4. Hepatitis.
 5. AIDS (acquired immune deficiency syndrome).
 6. Other infections.
- Integumentary System Treatment and Procedures:**
- A. Radical or modified radical mastectomy (simple mastectomy excluded).
1. Limitation of movement of shoulder and arm.
 2. Swelling of the arm.
 3. Loss of the skin of the chest requiring skin graft.
 4. Failure to completely eradicate the malignancy.
 5. Decreased sensation or numbness of the inner aspect of the arm and chest wall.
 6. Injury to major blood vessels.
- Radiology:**
- A. Cerebral Angiography
1. Injury to the artery entered or studied.
 2. Swelling, pain, tenderness or bleeding at the blood vessel entrance by catheter or needle.
 3. Stroke.

4. Death.
 5. Blindness.
 6. Brain Damage.
 7. Aggravation of the condition that necessitated the procedure.
 8. Emboli to the brain.
 9. Allergic sensitivity reaction to the injected contrast medium.
 10. Bleeding requiring transfusion or surgery.
- B. Coronary Angiography**
1. Injury to artery entered or studied.
 2. Damage to heart (including occlusion of coronary artery or perforation).
 3. Myocardial infarction (heart attack).
 4. Possible need for open heart surgery to correct complication of procedure or deterioration of the patient's medical condition.
 5. Arrhythmia (irregular heartbeat).
 6. Cardiac arrest.
 7. Death.
 8. Swelling, pain, tenderness or bleeding at the blood vessel entrance by catheter or needle.
 9. Aggravation of the condition that necessitated the procedure.
 10. Allergic sensitivity reaction to injected contrast media.
 11. Bleeding requiring transfusion or surgery.

Repair of Coarctation of Aorta:

1. Quadriplegia.
2. Paraplegia (paralysis of both legs or both arms).
3. Permanent hoarseness.
4. Chylothorax (leakage of chyle, the white body fluid from intestines carried by the lymphatic vessels, into the chest cavity).
5. Loss of bowel and/or bladder function.
6. Impotence in a male.

Repair of Aortic Dissection:

1. Stroke.
2. Renal failure.
3. Bowel infarction.
4. Paraplegia (paralysis of both legs or both arms).
5. Death.

Lung Resection:

1. Prolonged air leak.
2. Empyema (collection of pus).
3. Need for additional surgery to control infection, bleeding or air leak.

Any Procedure Requiring Cardiopulmonary Bypass:

1. Stroke.
2. Respiratory complications (including need for prolonged ventilatory support).
3. Kidney failure.
4. Death.

Insertion of Intra-aortic Augmentation Balloon:

1. Paraplegia (paralysis of both legs or both arms).
2. Loss of extremity.
3. Bowel infarction.
4. Renal failure.

Radiation Therapy (Radiation Oncology):

A. Head and Neck

1. Early reactions.
 - a. Reduced and sticky saliva, loss of taste and appetite, altered sense of smell, nausea.
 - b. Sore throat, difficulty swallowing, weight loss, fatigue.
 - c. Skin changes; redness, irritation, scaliness, blistering or ulceration, color change, thickening, hair loss.
 - d. Hoarseness, cough, loss of voice and swelling of airway.
 - e. Blockage and crusting of nasal passages.
 - f. Inflammation of ear canal, feeling of "stopped up" ear, hearing loss, dizziness.
 - g. Dry and irritable eye(s), if the eyes or tear glands are in the radiation beam.
 - h. Depression of blood count leading to increased risk of infection and/or bleeding.
 - i. These reactions are likely to be intensified by chemotherapy before, during or after radiation therapy.
 2. Late reactions.
 - a. Dry mouth and altered sense, or loss, of taste.
 - b. Tooth decay and gum changes.
 - c. Bone damage, especially in jaws.
 - d. Stiffness and limitation of jaw movement.
 - e. Changes in skin texture and/or coloration, permanent hair loss, scarring of skin, poor healing of surgical wounds, and death of normal tissue.
 - f. Swelling of tissues, particularly under the chin.
 - g. Throat damage causing hoarseness, pain, or difficulty breathing or swallowing.
 - h. Eye damage causing dry eye(s), cataract, loss of vision, or loss of eye(s), if the eye is in the radiation beam.
 - i. Ear damage causing dryness of ear canal, fluid collection in middle ear, hearing loss.
 - j. Brain, spinal cord, or nerve damage causing alteration of thinking ability.
 - k. Pituitary or thyroid gland damage requiring long-term hormone replacement therapy.
 - l. In children, there may be additional late reactions as follows:
 - i. Disturbances of bone and tissue growth.
 - ii. Abnormal development of facial bones.
 - iii. Brain damage causing a loss of intellectual ability, learning capacity, and reduced intelligence quotient (I.Q.).
 - iv. Second cancers developing in the irradiated area.
- B. Central nervous system.**
1. Early reactions.
 - a. Skin and scalp reaction with redness, irritation, scaliness, blistering, ulceration, change in color, thickening, hair loss.
 - b. Nausea, vomiting, headaches.
 - c. Fatigue, drowsiness.
 - d. Altered sense of taste or smell.
 - e. Inflammation of ear canal, feeling of "stopped up" ear, hearing loss, dizziness.
 - f. Depression of blood count leading to increased risk of infection and/or bleeding.

g. These reactions are likely to be intensified by chemotherapy before, during, or after radiation therapy.

2. Late reactions.

a. Permanent hair loss of variable degrees, altered regrowth, texture, and color of hair.

b. Persistent drowsiness and tiredness.

c. Brain damage causing a loss of some degree of thinking ability, memory or personality changes, loss of sensation or balance, seizures, hemorrhage, or steroid dependency due to brain swelling. Rarely, severe damage may produce paralysis or death.

d. Scarring of skin.

e. Spinal cord or nerve damage causing paralysis, loss of strength, feeling, or coordination in any part of the body.

f. Damage to eye(s) or optic nerve(s) causing loss of vision.

g. Ear damage causing dryness of ear canal, fluid collection in middle ear, hearing loss.

h. Pituitary gland damage requiring long-term hormone replacement therapy.

i. In children, there may be additional late reactions as follows:

i. Disturbances of bone and tissue growth.

ii. Bone damage to spine, causing stunting of growth, curvature, and/or reduction in height.

iii. Abnormal bone growth in the face or pelvis.

iv. Brain damage causing a loss of intellectual ability, learning capacity, and reduced intelligence quotient (I.Q.).

v. Second cancers developing in the irradiated area.

C. Thorax

1. Early reactions.

a. Skin changes: redness, irritation, scaliness, ulceration, change in color, thickening; hair loss on the chest.

b. Inflammation of esophagus causing pain on swallowing, heartburn, or sense of obstruction.

c. Loss of appetite, nausea, vomiting, weight loss, and weakness.

d. Inflammation of the lung with pain, fever, and cough.

e. Inflammation of the heart sac with chest pain and possible decreased heart function.

f. Bleeding or creation of a fistula resulting from tumor destruction.

g. Depression of blood count leading to increased risk of infection and/or bleeding.

h. Intermittent electric shock-like feelings in the lower spine or legs on bending the neck.

i. These reactions are likely to be intensified by chemotherapy before, during, or after radiation therapy.

2. Late reactions.

a. Changes in skin texture and/or coloration, permanent hair loss and scarring of skin.

b. Lung scarring or shrinkage causing shortness of breath.

c. Narrowing of esophagus causing swallowing problems.

d. Constriction of heart sac which may require surgical correction.

e. Damage to heart muscle or arteries leading to heart failure or heart attack.

f. Fracture of ribs.

g. Nerve damage causing pain, loss of strength or feeling in arms.

h. Spinal cord damage causing paralysis, loss of strength or feeling in arms and legs and/or loss of control of bladder and rectum.

i. Liver damage.

j. Loss of thyroid function.

k. In children, there may be additional late reactions as follows:

i. Disturbances of bone and tissue growth.

ii. Bone damage to spine, causing stunting of growth, curvature, and/or reduction in height.

iii. Underdevelopment or absence of development of female breast.

iv. Second cancers developing in the irradiated area.

D. Breast.

1. Early reactions.

a. Skin changes: redness (sunburn-like), irritation, scaliness, blistering, ulceration, coloration, thickening; hair loss.

b. Breast changes, including swelling, tightness, tenderness or pain.

c. Inflammation of the esophagus causing pain on swallowing, heartburn, or sense of obstruction.

d. Lung inflammation with cough.

e. Inflammation of heart sac with chest pain and possible decreased heart functions.

2. Late reactions.

a. Changes in skin texture and/or coloration, permanent hair loss and scarring of skin.

b. Breast changes, including thickening, firmness, tenderness, shrinkage, or edema (swelling).

c. Swelling of arm.

d. Stiffness and discomfort in shoulder joint.

e. Rib damage causing pain or fracture.

f. Nerve damage causing pain, loss of strength or feeling in arm.

g. Damage to heart muscle or heart sac leading to heart failure.

h. Permanent scarring of the lung producing shortness of breath, cough, or susceptibility to infection.

i. Loss of thyroid functions.

j. If there is a cancer recurrence, mastectomy may be required.

E. Abdomen.

1. Early reactions.

a. Skin changes: redness, irritation, scaliness, ulceration, change in color, thickening; hair loss.

b. Loss of appetite, nausea, vomiting.

c. Weight loss, weakness, fatigue.

d. Inflammation of stomach causing indigestion, heartburn, and ulcers.

e. Inflammation of bowel causing cramping and diarrhea.

f. Depression of blood count leading to increased risk of infections and/or bleeding.

g. These reactions are likely to be intensified by chemotherapy before, during, and after radiation therapy.

2. Late reactions.

a. Changes in skin texture and/or coloration, permanent hair loss and scarring of skin.

b. stomach damage causing persistent indigestion, pain, and bleeding.

c. Bowel damage causing narrowing or adhesions of bowel with obstruction, ulceration or bleeding which may require surgical correction, chronic diarrhea, or poor absorption of food elements.

d. Kidney damage leading to kidney failure and/or high blood pressure.

e. Liver damage leading to liver failure.

f. Spinal cord or nerve damage causing paralysis, loss of strength or feeling in legs and/or loss of control of bladder and/or rectum.

g. In children, there may be additional late reactions as follows:

i. Disturbances of bone and tissue growth.

ii. Bone damage to spine causing stunting of growth, curvature and/or reduction in height.

iii. Bone damage to pelvis causing stunting of bone growth and/or abnormal development.

iv. Second cancers developing in the irradiated area.

F. Female pelvis.

1. Early reactions.

a. Inflammation of bowel causing cramping, diarrhea, nausea, vomiting, and/or decreased appetite.

b. Inflammation of rectum and anus causing pain, spasm, discharge, bleeding.

c. Bladder inflammation causing burning, frequency, spasm, pain, bleeding.

d. Skin changes: redness, irritation, scaliness, blistering or ulceration, coloration, thickening; hair loss.

e. Disturbance of menstrual cycle.

f. Vaginal discharge, pain, irritation, bleeding.

g. Depression of blood count leading to increased risk of infection and/or bleeding.

h. These reactions are likely to be intensified by chemotherapy before, during or after radiation therapy.

2. Late reactions.

a. Bowel damage causing narrowing or adhesions of the bowel with obstruction, ulceration, bleeding, chronic diarrhea, or poor absorption of food elements and may require surgical correction or colostomy.

b. Bladder damage with loss of capacity, frequency of urination, blood in urine, recurrent urinary infections, pain, or spasm which may require urinary diversion and/or removal of bladder.

c. Changes in skin texture and/or coloration, permanent hair loss, scarring of skin.

d. Bone damage leading to fractures.

e. Ovarian damage causing infertility, sterility, premature menopause, or genetic damage to future offspring.

f. Vaginal damage leading to dryness, shrinkage, pain, bleeding, or sexual dysfunction.

g. Swelling of the genitals or legs.

h. Nerve damage causing pain, loss of strength or feeling in legs, and/or loss of control of bladder or rectum.

i. Fistula between the bladder and/or bowel and/or vagina.

j. Pelvic fibrosis producing obstruction of bowel or ureters.

k. In children, there may be additional late reactions as follows:

i. Disturbances of bone and tissue growth.

ii. Bone damage to pelvis and hips causing stunting of bone growth and/or abnormal development.

iii. Second cancers developing in the irradiated area.

G. Male Pelvis.

1. Early reactions.

a. Inflammation of bowel causing cramping, diarrhea, nausea, vomiting, and/or decreased appetite.

b. Inflammation of rectum and anus causing pain, spasm, discharge, bleeding.

c. Bladder inflammation causing burning, frequency, spasm, pain and/or bleeding.

d. Skin changes: redness, irritation, scaliness, blistering or ulceration, coloration, thickening; hair loss.

e. Depression of blood count leading to increased risk of infection and/or bleeding.

f. These reactions are likely to be intensified by chemotherapy before, during, or after radiation therapy.

2. Late reactions.

a. Bowel damage causing narrowing or adhesions of the bowel with obstruction, ulceration, bleeding, chronic diarrhea, or poor absorption of food elements and may require surgical correction or colostomy.

b. Bladder damage with loss of capacity, frequency of urination, blood in urine, recurrent urinary infections, pain, or spasm which may require urinary diversion and/or removal of bladder.

c. Changes in skin texture and/or coloration, permanent hair loss, scarring of skin.

d. Bone damage leading to fractures.

e. Testicular damage causing reduced sperm counts, infertility, sterility, or risk of birth defects.

f. Impotence (loss of erection) or sexual dysfunction.

g. Swelling of the genitalis or legs.

h. Nerve damage causing pain, loss of strength or feeling in legs, and/or loss of control of bladder or rectum.

i. Fistula between the bowel and other organs.

j. Pelvic fibrosis producing obstruction of bowel or ureters.

k. In children, there may be additional late reactions as follows:

i. Disturbances of bone and tissue growth.

ii. Bone damage to pelvis and hips causing stunting of bone growth and/or abnormal development.

iii. Second cancers developing in the irradiated area.

H. Skin.

1. Early reactions.

a. Redness, irritation, or soreness.

b. Scaliness, ulceration, crusting, oozing, discharge.

c. Hair loss.

d. These reactions are likely to be intensified by chemotherapy.

2. Late reactions.

a. Changes in skin texture causing scaly or shiny smooth skin, thickening, with contracture, puckering, scarring of skin.

b. Changes in skin color or overall appearance.

c. Prominent dilated small blood vessels.

d. Loss of sweating in treated area.

e. Permanent hair loss.

f. Chronic or recurrent ulcerations. Severe damage may require skin grafting or plastic surgery.

g. Damage to adjacent tissues, including underlying bone or cartilage.

h. Possible injury may occur from trauma, sun, or frostbite unless the treated area is forever protected.

i. In children, second cancers may develop in the irradiated area.

I. Extremities.

1. Early reactions.

a. Skin changes: redness, irritation, scaliness, ulceration, coloration, thickening; hair loss.

b. Inflammation of soft tissues causing tenderness, swelling, and interference with movement.

c. Inflammation of joints causing pain, swelling and limitation of joint motion.

d. These reactions are likely to be intensified by chemotherapy before, during or after radiation therapy.

e. Depression of blood counts leading to increased risk of infection and/or bleeding.

2. Late reactions.

a. Changes in skin reaction and/or coloration, permanent hair loss, and scarring of the skin.

b. Scarring or shrinkage of soft tissues and muscle causing loss of flexibility and movement, swelling of the limb.

c. Nerve damage causing loss of strength, feeling, or coordination.

d. Bone damage causing fracture.

e. Joint damage causing permanent stiffness, pain, and arthritis.

f. Swelling of limb below the area treated.

g. In children, there may be additional late reactions as follows:

i. Disturbances of bone and tissue growth.

ii. Bone damage to limbs causing stunting of bone growth and/or abnormal development.

iii. Second cancers developing in the irradiated area.

J. Total body irradiation.

1. Early reactions.

a. Loss of appetite, nausea, vomiting.

b. Diarrhea.

c. Reduced and sticky saliva, swelling of the salivary gland(s), loss of taste.

d. Hair loss.

e. Sore mouth and throat, difficulty swallowing.

f. Permanent destruction of bone marrow leading to infection, bleeding, and possible fatal lung failure.

g. Inflammation of the lung with fever, dry cough and difficulty breathing with possible fatal lung failure.

h. Damage to liver with possible fatal liver failure.

i. Depression of blood counts leading to increased risk of infection and/or bleeding.

j. These reactions are likely to be intensified by chemotherapy before, during, or after radiation therapy.

2. Late reactions.

a. Lung scarring causing shortness of breath, infection, and fatal lung failure.

b. Cataract formation in the eyes, possible loss of vision.

c. Testicular damage in males causing sterility.

d. Ovarian damage in females causing premature menopause and sterility.

e. Increased risk of second cancer.

f. Decreased ability to give further chemotherapy or other cancer treatment.

K. Endobronchial radiation.

1. Early reactions.

a. A mild sore throat.

b. Some difficulty in swallowing.

c. Bleeding.

d. Infection or pneumonia.

2. Late reactions.

a. Damage to spinal cord possibly producing paralysis.

b. Lung scarring.

c. Hemorrhage (possibly fatal).

d. Inflammation of heart sac.

e. Fistula (opening between bronchial tree and lung and/or esophagus).

f. Pneumothorax (collapse of lung).

g. Abscess formation.

h. Death.

**PATIENT CONSENT TO MEDICAL TREATMENT OR
SURGICAL PROCEDURE AND ACKNOWLEDGEMENT
OF RECEIPT OF MEDICAL INFORMATION**

**IMPORTANT INFORMATION ABOUT THIS DOCUMENT -
READ COMPLETELY BEFORE SIGNING:**

TO THE PATIENT: You have been told that you should consider medical treatment/surgery. The Louisiana Medical Disclosure Panel Law requires us to tell you (1) the nature of your condition, (2) the general nature of the proposed treatment/surgery, (3) the risks of the proposed treatment/surgery, as defined by the Louisiana Medical Disclosure Panel, and (4) reasonable therapeutic alternatives and risks associated with such alternatives.

You have the right, as a patient, to be informed about your condition and the recommended surgical, medical, or diagnostic procedure to be used so that you may make the decision whether or not to undergo the procedure after knowing the risks and hazards involved.

In keeping with the Louisiana State Law of Informed Consent, you are being asked to sign a confirmation that we have discussed all these matters. We have already discussed with you the common problems and risks. We wish to inform you as completely as possible. Please read the form carefully. Ask about anything that you do not understand, and we will be pleased to explain it.

1. PATIENT	1(a). PATIENT REPRESENTATIVE
Name:	Name:
2. TREATMENT/ PROCEDURE	Address:
Description, nature of treatment/procedure	
	Relation to patient:
Purpose:	

3. PATIENT CONDITION
PATIENT'S DIAGNOSIS, DESCRIPTION OF THE NATURE OF THE CONDITION OR AILMENT FOR WHICH THE MEDICAL TREATMENT, SURGICAL PROCEDURE OR OTHER THERAPY DESCRIBED IN ITEM 2 OF THIS CONSENT FORM IS INDICATED AND RECOMMENDED:

4. MATERIAL RISKS OF TREATMENT PROCEDURE
THE MATERIAL RISKS ASSOCIATED WITH THE MEDICAL TREATMENT, SURGICAL PROCEDURE, OR OTHER THERAPY DESCRIBED IN ITEM 2 OF THIS CONSENT FORM, AS REQUIRED BY THE LOUISIANA MEDICAL DISCLOSURE PANEL LAW, ARE:

4(a). ADDITIONAL RISKS (IF ANY) PARTICULAR TO THE PATIENT BECAUSE OF A COMPLICATING MEDICAL CONDITION ARE:

5. THERAPEUTIC ALTERNATIVES AND RISKS ASSOCIATED THEREWITH
REASONABLE THERAPEUTIC ALTERNATIVES AND THE RISKS ASSOCIATED WITH SUCH ALTERNATIVES:

6.

ACKNOWLEDGEMENT, AUTHORIZATION AND CONSENT

6a. No Guarantee: All information given me, and in particular, all estimates made as to the likelihood of occurrence of risks of this or alternate procedures or as to the prospects of success, are made in the best professional judgment of my physician. The possibility and nature of complications cannot always be accurately anticipated and, therefore, there is and can be no guarantee, either express or implied, as to the success or other results of the medical treatment or surgical procedure.

6b. Additional Information: Nothing has been said to me, no information has been given to me, and I have not relied upon any information that is inconsistent with the information set forth in this document.

6c. Particular Concerns: I have had an opportunity to disclose to and discuss with the physician providing such information those risks or other potential consequences of the medical treatment or surgical procedure that are of particular concern to me.

6d. Questions: I have had an opportunity to ask, and I have asked, any questions I may have about the information in this document and any other questions I have about the proposed treatment or procedure, and all such questions were answered in a satisfactory manner.

6e. AUTHORIZED PHYSICIAN

The physician who is authorized to and will administer or perform the medical treatment, surgical procedure or other therapy described in Item 2 of this Consent Form hereof is:

(Full Name of Authorized Physician)

6f. PHYSICIAN CERTIFICATION

I HEREBY CERTIFY that I have provided and explained the information set forth herein and answered all questions of the Patient, or the Patient's Representative, concerning the Medical Treatment or Surgical Procedure, to the best of my knowledge and ability.

(Signature of Physician)

Date: _____ Time: _____

6g. CONSENT

Consent: I hereby authorize and direct the Authorized Physician named and designated in Item 2 of this Consent Form, together with associates and assistants of his choice, to administer or perform the Medical Treatment or Surgical Procedure described in Item 2 of this Consent Form, including any additional procedures or services as they may deem necessary or reasonable, including the administration of any general or regional anesthetic agent, x-ray or other radiological services, laboratory services, and the disposal of any tissue removed during a diagnostic or surgical procedure, and I hereby consent thereto.

I have read and understand all information set forth in this document and all applicable blanks were filled in prior to my signing. This authorization for and consent to medical treatment or surgical procedure is and shall remain valid until revoked by me in writing.

I acknowledge that I have had the opportunity to ask any questions about the contemplated medical treatment or surgical procedure described in Item 2 of this Consent Form, including risks or alternatives, and acknowledge that my questions have been answered to my satisfaction.

Signature of Patient
Representative (Where Required)

Witness

J. Christopher Pilley
Secretary

RULE

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

**Title XIX Medicaid Program-Chiropractors
Services**

In accordance with the provisions of 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, is adopting the following rule in the Title XIX Medicaid Program.

RULE

Effective January 1, 1993, Medicaid of Louisiana will reimburse chiropractors for their services under the following conditions:

1. Chiropractors' services consists of treatment by means of manual manipulation of the spine that the chiropractor is legally authorized by the state to perform.

2. Payment will be made to chiropractors who are licensed by the state to practice. In addition, chiropractors must be enrolled in the Medicaid Program as a Medicaid provider.

3. The State Plan for a limitation of up to 12 out-patient physician visits per calendar year with provision for extension if medically approved. This limitation on office visits applies to other licensed practitioners such as dentists, optometrists, and podiatrists, and will include chiropractors. For diagnostic radiology, chiropractors may be reimbursed up to a maximum of \$225 per calendar year per recipient. Chiropractic treatment will be limited to 25 billable treatment encounters per calendar year per recipient with a maximum of three billable services at each encounter. Provision is made for extension of additional encounters up to a maximum of 35 based on medical review by the fiscal intermediary which determines that medical necessity warrants the additional services. Early and Periodic Screening Diagnosis and Treatment (EPSDT) recipients are excluded from the service limitations.

4. Reimbursement will be in accordance with a maximum fee schedule for each chiropractic service rendered to Title XIX eligible individuals.

Christopher Pilley
Secretary

RULE

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

Utilization Review

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted a rule regarding the practice of Utilization Review in Louisiana.

The purpose of these rules and regulation is to: promote the delivery of quality health care in a cost effective manner; foster greater coordination between payors, private review agents, and health care providers; protect patients, businesses, and health care providers by ensuring that private review agents are qualified to perform utilization review activities and by permitting informed decisions on the appropriateness of medical care; and ensure that private review agents maintain the confidentiality of medical records in accordance with applicable state and federal law.

The full text of this rule was printed in its entirety in the emergency rule section of the July 20, 1992 *Louisiana Register*, pages 675 through 682.

J. Christopher Pilley
Secretary

RULE

**Department of Insurance
Commissioner of Insurance**

**Regulation 40—Summary Document
and Disclaimer and Notice of Noncoverage**

Pursuant to the provisions of R.S.49:950 et seq. and R.S. 22:3 and R.S.22:1395.18(B)(C)(D), the Commissioner of Insurance has amended Regulation 40. The amendments to the regulation establish the form and content for the LLHIGA Summary Document, which includes the Disclaimer as originally promulgated, and the Notice of Noncoverage. These documents are to be delivered to insurance consumers as provided for in R.S. 22:1395.18(B) and (D).

Regulation 40, as amended, sets forth the form and content of the Summary Document, including the Disclaimer, which is to be delivered to purchasers of life and health policies. It also sets forth the form and content of a Notice of Noncoverage which is to be delivered to purchasers of certain types of policies or contracts as set forth in R.S. 22:1395.18(D).

The regulation begins with a statement of authority for its issuance, its purpose and scope. It then prescribes in detail the form and content of the above documents.

Regulation 40

LLHIGA Act Summary Document and Disclaimer and Notice of Noncoverage

§1. Authority

This regulation is promulgated under the authority of Title 22:3 and 22:1395.18(B)(C)(D) of the Insurance Code of Louisiana and the Administrative Procedure Act, R.S.49:950 et seq.

§2. Purpose

The purpose of this regulation is to implement Act 998 of the 1991 Regular Legislative Session, entitled Louisiana Life and Health Insurance Guaranty Association (LLHIGA) as set forth in R.S. 22:1395.1, et seq., which is designed to protect covered persons against the risk of insurer insolvencies under certain life and health insurance policies.

The purpose of the documents is to give notice to the insurance-buying consumer that the LLHIGA Act includes restrictions as to coverage, and in some instances excludes coverage for certain types of policies or contracts, and includes substantial limitations as to the amounts which may be reimbursed in the event of the insolvency of the insurer.

§3. Applicability and Scope

This regulation applies to the Louisiana Life and Health Insurance Guaranty Association (LLHIGA) and its member insurers as defined by R.S.22:1395.3.

Exhibit A, which follows hereto and is made a part hereof, sets forth the form and content of the Summary Document, as approved by the Commissioner of Insurance on August 10, 1992, summarizes the coverage provided by the Act, and includes a Disclaimer statement which is to be conspicuously placed on the front of the Summary Document. Pursuant to R.S.22:1395.18(B) the Summary Document with the Disclaimer is to be delivered with each life or health insurance policy, as described in R.S.1395.3(B)(1), issued or delivered in Louisiana.

Exhibit B, which follows hereto and is made apart hereof, sets forth the Notice of Noncoverage required by R.S. 22:1395.18(D). It is required to be delivered with each policy or contract referred to in R.S. 22:1395.3(B)(1) and excluded from coverage under R.S. 22:1395.3(B)(2)(a).

§4. Form and Content

The Summary Document and Disclaimer shall be in a form which complies with Exhibit A which follows hereto and forming a part of this regulation.

The Notice of Noncoverage shall be in a form which complies with Exhibit B which follows hereto and forming a part of this regulation.

Exhibit A. Summary of the Louisiana Life and Health Insurance Guaranty Association Act and Notice Concerning Coverage Limitations and Exclusions

Residents of Louisiana who purchase life insurance, annuities or health insurance should know that the insurance companies licensed in this state to write these types of insurance are members of the Louisiana Life and Health Insurance Guaranty Association. The purpose of this Association is to assure that policyholders will be protected, within limits, in the unlikely event that a member insurer becomes financially unable to meet its obligations. If this should happen, the Guaranty Association will assess its other member insurance companies for the money

to pay the claims of insured persons who live in this state and, in some cases, to keep coverage in force. However, the valuable extra protection provided by these insurers through the Guaranty Association is limited. As noted in the Disclaimer below, this protection is not a substitute for consumers' care in selecting companies that are well-managed and financially stable.

Disclaimer

The Louisiana Life and Health Insurance Guaranty Association provides coverage of claims under some types of policies if the insurer becomes impaired or insolvent. COVERAGE MAY NOT BE AVAILABLE FOR YOUR POLICY. Even if coverage is provided, there are significant limits and exclusions. Coverage is always conditioned upon residence in this state. Other conditions may also preclude coverage.

Insurance companies and insurance agents are prohibited by law from using the existence of the association or its coverage to sell you an insurance policy.

You should not rely on the availability of coverage under the Louisiana Life and Health Insurance Guaranty Association when selecting an insurer.

The Louisiana Life and Health Insurance Guaranty Association or the Department of Insurance will respond to any questions you may have which are not answered by this document.

LLHIGA

PO Drawer 44126

Baton Rouge, LA 70804

Department of Insurance

PO Box 94212

Baton Rouge, LA 70804-9214

The state law that provides for this safety-net coverage is called the Louisiana Life and Health Insurance Guaranty Association Act. The following is a brief summary of this law's coverages, exclusions and limits. This summary does not cover all provisions of the law; nor does it in any way change any person's rights or obligations under the Act or the rights or obligations of the Guaranty Association.

Coverage

Generally, individuals will be protected by the Life and Health Insurance Guaranty Association if they live in this state and hold a life or health insurance contract, or an annuity, or if they are insured under a group insurance contract, issued by an insurer authorized to conduct business in Louisiana. The beneficiaries, payees or assignees of insured persons are protected as well even if they live in another state.

Exclusions from Coverage

However, persons holding such policies are not protected by this association, if:

(1) they are eligible for protection under the laws of another state (this may occur when the insolvent insurer was incorporated in another state whose Guaranty Association protects insureds who live outside that state);

(2) the insurer was not authorized to do business in this state;

(3) their policy was issued by a nonprofit hospital or medical service organization (the "Blues"), an HMO, a fraternal benefit society, a mandatory state pooling plan, a mutual assessment company or similar plan in which the policyholder is subject to future assessments, or by an insurance exchange.

The association also does not provide coverage for:

(1) any policy or portion of a policy which is not guaranteed by the insurer or for which the individual has assumed the risk,

such as a variable contract sold by prospectus;

(2) any policy of reinsurance (unless an assumption certificate was issued);

(3) interest rate yields that exceed an average rate;

(4) dividends;

(5) credits given in connection with the administration of a policy by a group contract holder;

(6) employers' plans to the extent they are self-funded (that is, not insured by an insurance company, even if an insurance company administers them);

(7) unallocated annuity contracts (which give rights to group contract holders, not individuals), unless qualified under Section 403(b) of the Internal Revenue Code, except that, even if qualified under Section 403(b), unallocated annuities issued to employee benefit plans protected by the Federal Pension Benefit Guaranty Corporation are not covered.

Limits on Amounts of Coverage

The act also limits the amount the association is obligated to pay out: The association cannot pay more than what the insurance company would owe under a policy or contract. Also, for any one insured life, the association will pay a maximum of \$300,000 no matter how many policies and contracts there were with the same company, even if they provided different types of coverage. Within this overall \$300,000 limit, the Association will not pay more than \$100,000 in cash surrender values, \$100,000 in health insurance benefits, \$100,000 in present value of annuities, or \$300,000 in life insurance death benefits - again, no matter how many policies and contracts there were with the same company, and no matter how many different types of coverages.

Exhibit B. Notice of Noncoverage

The Louisiana Life and Health Insurance Guaranty Association (LLHIGA) provides coverage of claims under some types of policies if the insurer becomes impaired or insolvent.

THE POLICY OR CONTRACT YOU ARE PURCHASING
IS NOT COVERED BY THE LOUISIANA LIFE AND
HEALTH INSURANCE GUARANTY ASSOCIATION.

Coverage is specifically excluded by law for the type of policy or contract you are purchasing.

Jim H. "Jim" Brown
Commissioner

RULE

Department of Insurance
Commissioner of Insurance

Regulation 42
Group Self-Insurance Funds

Under the authority of Louisiana Revised Statutes Title 23, Section 1193, the Department of Insurance has amended the following regulation. This action complies with the statutory law administered by the Department of Insurance.

Regulation 42

GROUP SELF-INSURANCE FUNDS

§1. This regulation is adopted and promulgated by the Commissioner of Insurance pursuant to authority granted by Louisiana Revised Statutes Title 23, Section 1193.

§2. Definitions

When used in this regulation, the following words or terms shall have the meaning as described in this Section.

Administrator — an individual, partnership or corporation engaged by a group self-insurance fund to carry out the policies of the trustees of the fund and to provide day-to-day management of the fund.

Aggregate Losses — the amount of all claims including reserves for loss development and losses incurred but not reported which exceeds the loss fund.

Contingent Liability — the amount that a self-insurance fund may be obligated to pay in excess of a given fund year's normal premium collected or on hand.

Fiscal Agent — an individual, partnership or corporation engaged by a self-insurance fund to carry out the fiscal policies of the fund, invest and disburse assets and oversee the financial matters of the fund. An administrator may be a fiscal agent.

Gross Premium — premium determined by multiplying the payroll (segregated into the proper workers' compensation job classifications) times the manual premium rates approved by the commissioner.

Incurred but not Reported Reserves — a reserve established which estimates the incurred loss of claims whose existence is unknown by the fund or claims which have been reported but not recorded on the books of the fund.

Loss Development — the change in incurred loss from one point in time to another.

Loss Development Reserve — any amount needed in a given fund year in addition to current loss reserves to fund future loss development.

Loss Fund — the retention under the terms of an aggregate excess contract, or if no aggregate excess is purchased, the amount remaining from normal premium in each fund year after all necessary expenses are paid.

Normal Premium — standard premium less allowed discount.

Qualified Actuary — Either 1) an associate or fellow of the Casualty Actuarial Society or 2) a member of the American Academy of Actuaries who demonstrates knowledge of workers compensation insurance.

Group Self-insurance Fund or Fund — employers who enter into agreements to pool their workers compensation liabilities in accordance with Louisiana Revised Statutes Title 23, §§1191-1193.

Standard Premium — gross premium plus or minus applicable experience debits or credits.

Surplus — assets of a fund in excess of loss reserves, actual and contingent liabilities and loss development reserves in all fund years.

§3. Application to Create a Group Self-Insurance Fund

A. All applications to create a group self-insurance fund shall meet the requirements of R.S. 23:1191-1193, any other applicable laws of the state of Louisiana, and this regulation.

B. Applications shall be made in writing on a form acceptable to the commissioner.

C. Applications shall be submitted to the Department of Insurance at least 60 days prior to the effective date for establishment of a fund. Any application submitted with less than 60 days remaining before the desired effective date or which does not contain answers to all questions or which is not notarized may be returned without review by the commissioner.

D. All applications shall be accompanied by:

(1) a properly completed indemnity agreement in a form acceptable to the commissioner, pursuant to §7 of this regulation;

(2) securities or a Self-Insurers Surety Bond on a form and properly executed by a surety acceptable to the commissioner, pursuant to Louisiana Revised Statutes Title 23, §1192(A)(2) and this regulation;

(3) copies of acceptable excess insurance policies, pursuant to Louisiana Revised Statutes Title 23, §1192(A)(3) and this regulation;

(4) a fidelity bond covering the service company, pursuant to Louisiana revised Statutes Title 23, §1192(A)(7);

(5) a certification from a designated depository attesting to the amount of monies on hand;

(6) copies of the fund bylaws or trust agreement;

(7) individual application of each member of the group applying for membership in the fund on the effective date of the fund;

(8) proof that the initial members of the fund have the combined net worth and membership requirements as specified in Louisiana Revised Statutes Title 23, §1191 and this regulation;

(9) proof that the fund shall have an annual gross premium as specified in Louisiana Revised Statutes Title 23, §1192(A)(1);

(10) the current financial statement of any casualty insurance company writing excess coverage for the fund, which meets the requirements of Louisiana Revised Statutes Title 23, §1192(A)(6);

(11) the name of the attorney representing the fund and the name of the certified public accountant who will be submitting the certified financial statement;

(12) a completed estimated breakdown of policy year expenses on a form acceptable to the commissioner;

(13) the address in this state where the books and records of the group will be maintained at all times;

(14) proof of payment to the group self-insurance fund by each member of not less than 25 percent of that member's first year estimated annual net premium;

(15) a pro forma financial statement, pursuant to Louisiana Revised Statutes Title 23, §1192(A)(8) and §5(A) hereof.

E. Upon receipt of the application and other required materials, the commissioner will investigate the application and will request any additional information which is required in a letter to the applicant.

F. Failure to meet any of the criteria or provide needed information shall be grounds for denial of the application.

G. Within 45 days of receipt of all requested information, the commissioner shall issue a decision approving or denying the application, or shall extend his time for review.

§4. Conditions for Retaining the Self-Insurance Privilege

A. The self-insurance privilege of a fund is granted continuously until revoked.

B. All funds shall be required to submit the following documents and reports:

(1) annual financial statements certified by an independent certified public accountant pursuant to §5(B) hereof;

(2) estimated breakdown of policy year expenses pursuant to §5(D) hereof;

(3) actuarial reports as may be required by the commissioner;

(4) changes in items required to be furnished under §3(D)(1),(2),(3),(4),(6),(10),(11)and (13), within 10 days of the effective date of such change.

C. All funds shall maintain a combined net worth of their members sufficient to pay all claims.

D. Each fund shall notify the commissioner, within 10 days of receiving knowledge thereof, of any claim, whether such claim is in litigation or otherwise, against the fund which, if the claimant is successful, would create an obligation of the fund to pay in excess of 50 percent of the fund's specific self insured retention or \$125,000, whichever is less.

E. The commissioner may prescribe the format and frequency of other reports which may include, but shall not be limited to, payroll audit reports, summary loss reports, and quarterly financial statements.

F. The commissioner may require periodic proof that the fund is complying with the applicable laws, rules, regulations and directives of the Department of Insurance.

G. Whenever the commissioner determines that a fund has knowingly submitted an application or other information containing false or misleading information, the commissioner may revoke the Certificate of Authority of the fund.

§5. Financial and Actuarial Reports for Group Self-Insurance Funds

A. Each fund shall submit a current financial statement, certified by an independent certified public accountant, of at least two members showing, at the inception of the fund, a combined net worth of a minimum of \$500,000, current financial statements of all other members, a combined ratio of current assets to current liabilities of more than 1 to 1, a combined working capital of an amount establishing financial strength and liquidity of the members to pay normal compensation claims promptly, and showing evidence of the financial ability of the group to meet its obligations. A certified audit or a financial statement properly certified by an officer, owner or partner for all members joining the fund after the inception date shall be submitted to the commissioner until such time as a certified annual audit report is available for the fund as a whole. In no event shall the cumulative net worth or ratio of the current assets to current liabilities of all members be less than that required in this Subsection.

B. The report of financial condition shall be due annually within six months of the close of the fiscal year of the fund, unless an extension is granted by the commissioner, on a form acceptable to the commissioner.

C. Actuarial reviews, if required, shall be made by a qualified actuary. Actuarial reports shall be due and filed at the

same time as the fund's annual financial statement, except as otherwise provided by the commissioner.

D. Each fund shall file an estimated breakdown of expenses on a form acceptable to the commissioner, within 60 days after the beginning of each fiscal year.

§6. Excess Insurance Requirements for Group Self-Insurance Funds

A. All funds shall maintain specific excess insurance in the amount of at least \$2,000,000 per occurrence and an aggregate excess of at least \$2,000,000.

B. For the purposes of this Section, no loss fund shall be less than 70 percent of earned normal premium without the approval of the commissioner.

C. The maximum retention allowed for a fund's specific excess policy shall be in accordance with the following schedule unless a waiver is granted pursuant to Subsections (D), (E), (F) and (G) of this Section:

(1) for funds with a loss fund less than \$50,000,000, the maximum retention shall be three percent of the fund's loss fund, or \$250,000, whichever is greater;

(2) for funds with a loss fund greater than or equal to \$50,000,000 and less than \$100,000,000, the maximum retention shall be 3.5 percent of the fund's loss fund;

(3) for funds with a loss fund greater than or equal to \$100,000,000, the maximum retention shall be four percent of the fund's loss fund;

(4) regardless of any maximum contained in this Subsection, no fund shall secure a retention which in the commissioner's opinion is not actuarially sound.

D. If a fund wishes to secure a specific excess policy with a retention greater than the maximum allowed by Subsection C of this Section, then the fund shall comply with the procedure described in Subsections E, F and G of this Section.

E. Funds which have been in operation at least 30 months may request permission to secure a retention higher than that authorized by Subsection C of this Subsection. A fund shall submit a feasibility study prepared by a qualified actuary which analyzes the impact on the fund of the higher retention.

F. The commissioner shall deny the use of a higher retention if he finds (1) that the higher retention will have a significant adverse effect on the financial condition of the fund, or (2) that the fund is unable to establish reserves using monies from (a) premium earned during the year the loss was incurred, or (b) investment earnings from the year in which the loss was incurred, or (c) from future investment earnings on the specific loss reserve.

G. Each fund shall provide security for aggregate losses by selecting one of the following alternatives:

(1) purchasing an acceptable aggregate excess policy,

(2) upon approval of the commissioner, post a cash security deposit in the amount of \$1,000,000 or 20 percent of annual standard premium, whichever is greater, or

(3) if the fund has been in operation at least 60 months, upon approval of the commissioner, establish an actuarially sound reserve for aggregate losses.

H. Subject to the minimum stated in Subsection A of this Section, the fund shall secure an aggregate limit of at least 20 percent of the annual standard premium of the fund for the term

of the policy. The retention of the aggregate policy shall be subject to the approval of the commissioner.

I. If the option in Subsection G(2) of this Section is selected, a fund, upon approval of the commissioner, may self-insure part of its aggregate limit by posting as a cash security deposit for the amount which is self-insured.

J. If a fund receives permission to provide security for its aggregate losses by establishing an aggregate reserve, the fund shall comply with the following requirements:

(1) At least 60 days prior to the beginning of each policy year for which an aggregate reserve will be established, the fund shall submit a plan for that year. Approval of the plan by the commissioner shall be required before an aggregate reserve may be established for the next policy year.

(2) Within six months after the end of each fund year, the fund shall submit an actuarial review, by a qualified actuary, of its aggregate reserve for each fund year whose aggregate losses are guaranteed by the reserve.

(3) Along with the actuarial review, the fund shall provide financial information which sets forth the financial position of the aggregate reserve.

(4) In actuarially determining the amount of ultimate loss, the fund and its actuary may take into account current or future recoveries from any aggregate or specific excess contract, if such contract complies with this regulation.

K. The commissioner may:

(1) reject an actuarial review or financial report which does not comply with the requirements of Subsection L of this Section. If this occurs, the commissioner may, at the expense of the fund, conduct his own actuarial or financial review, or, upon request of the fund, allow the fund to submit another actuarial or financial report subject to the commissioner's approval of the party preparing the report;

(2) for good cause, order a fund to cease using an aggregate reserve for securing its aggregate losses. Good cause shall include a finding that the aggregate reserve is actuarially unsound, that the fund is insolvent, that the fund will lack sufficient liquidity to run off its claims without reliance on future premium income, or that the fund has failed to comply with the provisions of this regulation;

(3) in the event that the fund's aggregate reserve, or reserves, is actuarially unsound, order the fund to take such corrective action as necessary to make the reserve actuarially sound.

L. If a fund receives approval of its plan to use an aggregate reserve to provide security for its aggregate losses, then:

(1) payment of dividends from premium in a fund year shall not be requested or approved for that fund year as long as any claims reserves, reserves for loss development or reserves for losses incurred but not reported (IBNR) are unfunded by actual cash reserves;

(2) no dividends shall be requested or approved from investment earnings unless the aggregate reserves for all years are actuarially sound, taking into account future contributions, and aggregate excess insurance;

(3) advance premium discounts and all expenses unnecessary for the fund to meet its obligations will be reduced or eliminated, if necessary, to provide funds to make an aggregate reserve actuarially sound;

(4) amounts actuarially determined to be necessary for the reserves for loss development and IBNR shall be a part of the fund's security deposit requirement;

(5) no premium from a year prior to the year for which the aggregate reserve is established may be allocated to fund an aggregate reserve until 12 months after the close of the prior year.

§7. Indemnity Agreement

A. Each self-insurance fund member shall enter into an indemnity agreement jointly and severally binding the self-insurance fund and each member thereof to comply with the provisions of the applicable Louisiana Revised Statutes and rules, regulations and directives of the Department of Insurance.

B. The Indemnity Agreement requirement shall not be applicable to group self-insurance funds of public employers.

§8. Rates and Reporting of Rates

Every workers' compensation self-insurance fund shall adhere to a uniform classification system, uniform experience rating plan, and manual rules approved by the commissioner. An experience modification shall be determined for each member of a self-insurance fund annually, or as otherwise provided, on the same basis as if the employer were insured under rules approved by the Louisiana Insurance Rating Commission for admitted carriers and such modification is to be used to determine the employer's standard premium as provided by such rules and the indemnity agreement. Should a member cease to participate in a self-insurance fund and purchase standard insurance coverage, self-insured experience may be used in the employer's future experience rating calculation.

§9. Authorized Investments for Group Self-Insurance Funds

Amounts not needed for current obligations may be invested by the board of trustees in deposits in federally insured banks or savings and loan associations or in direct obligations of the United States government or direct obligations of the state of Louisiana.

§10. Premium Audit

All self-insurance funds shall determine the normal premium due from each member in each policy year based on actual audited payroll. Audits shall consist of physical on-site audits or mail self-audits. The requirements set forth herein shall apply to the fund and its present or former members. Funds shall be responsible for compliance with this Section by contracted audit personnel or firms.

§11. Board of Trustees

A. Except upon approval of the commissioner, the fund's administrator, service company, or any owner, officer, employee of, or any other person affiliated with, such administrator or service company shall not serve on the board of trustees of the fund.

B. All trustees shall be residents of this state or officers of corporations authorized to do business in this state.

C. The board of trustees of each group shall ensure that all claims are paid promptly and take all necessary precautions to safeguard the assets of the group, including all of the following:

(1) maintain responsibility for all monies collected or disbursed from the group and segregate all monies into a claims fund account and an administrative fund account. At least 70 percent of the premium as determined by the commissioner shall be designated for the sole purpose of paying claims, allocated

claims expenses, and special fund contributions, including second injury and other loss related funds. This shall be called the claims fund account. The remaining net premium shall be designated for the payment of taxes, general regulatory fees, assessments, and administrative costs. This shall be called the administrative fund account. The commissioner may approve an administrative fund account of more than 30 percent and a claims fund account of less than 70 percent only if the group shows to the commissioner's satisfaction that (a) more than 30 percent is needed for an effective safety and loss control program or (b) the group's aggregate excess insurance attaches at less than 70 percent;

(2) maintain minutes of its meetings;

(3) designate an administrator to carry out the policies established by the board of trustees and to provide day-to-day management of the group, and delineate in the written minutes of its meetings the areas of authority it delegates to the administrator;

(4) retain an independent certified public accountant to prepare the statement of financial condition required by Subsections A and B of §5 hereof;

(5) the trustees shall cause to be adopted a set of by-laws or shall enter into a trust agreement which shall govern the operation of the fund.

D. The board of trustees shall not:

(1) extend credit to individual members for payment of a premium, except pursuant to payment plans approved by the commissioner;

(2) borrow any monies from the group or in the name of the group, except in the ordinary course of business, without first obtaining prior approval from the commissioner.

§12. Group Membership; Termination, Liability

A. An employer joining a group after the group has been issued a certificate of approval shall: (a) submit an application for membership to the board of trustees or its administrator and (b) enter into the indemnity agreement required by Subsection C(1) of §3 hereof. Membership shall take effect no earlier than each member's date of approval. The application for membership and its approval shall be maintained as permanent records of the board of trustees.

B. Individual members of a group shall be subject to cancellation by the group's cancellation policy. In addition, individual members may elect to terminate their participation in the group.

C. The group shall pay all workers' compensation benefits for which each member incurs liability during its period of membership. A member who elects to terminate its membership or is canceled by a group remains liable jointly and in solido for claims of the group and its members which were incurred during the canceled or terminated member's period of membership.

D. A group member is not relieved of its workers' compensation liabilities incurred during its period of membership except through payment by the group or the member of required workers' compensation benefits.

E. The insolvency or bankruptcy of a member does not relieve the group or any other member of liability for the payment of any worker's compensation benefits incurred during the insolvent or bankrupt member's period of membership.

§13. Service Companies

A. All service companies must file a request for approval by the commissioner and have a letter or certificate of approval from the commissioner prior to engaging in any service to a fund. All service companies performing services for group self-insurance funds on the effective date of this regulation shall file the request for approval and receive the letter or certificate of approval from the commissioner not later than March 1, 1993. The commissioner may request any information deemed necessary to establish the ability and financial strength of the service company to perform the required functions.

B. Except upon approval of the commissioner: (1) no service company or its employees, officers or directors shall be an employee, officer, or director of, or have either a direct or indirect financial interest in, an administrator, and (2) no administrator or its employees, officers or directors shall be an employee, officer or director of, or have either a direct or indirect financial interest in, a service company.

C. The service contract shall state that, unless the commissioner approves otherwise, the service company shall handle, to their conclusion, all claims and other obligations incurred during the contract period.

§14. Licensing of Agents

Any person soliciting membership for a fund must be licensed by the commissioner as a property and casualty agent; provided, however, that employees of a bona fide trade or professional association which has established a fund shall not be required to be so licensed if such solicitation is not the primary duty of such employees.

§15. Deficits and Insolvencies

A. Should the commissioner find a fund in danger of becoming insolvent, the fund shall make up any deficiency owed or shall submit a plan for elimination of the deficit to the commissioner in order that he may determine whether or not an assessment upon its members for the amount needed to make up the deficiency is required.

B. In the event of a deficiency in any fund year, such deficiency shall be made up immediately, either from (a) surplus from a fund year other than the current fund year, (b) administrative funds, (c) assessment of the membership, if ordered by the fund, or (d) such alternative method as the commissioner may approve or direct. The commissioner shall be notified prior to any transfer of surplus funds from one fund year to another.

C. If the fund fails to assess its members, otherwise make up such deficit, or submit a plan, as specified in Subsection A above, within 60 days of notice by the commissioner, the commissioner shall order assessment of the members of the fund.

D. If the fund fails to make the required assessment of its members within 30 days after the commissioner orders it to do so, or if the deficiency is not fully made up within 90 days after the date that such assessment is made, or within such longer period of time as may be specified by the commissioner, the fund shall be deemed to be insolvent.

E. For purposes of these provisions, a fund is insolvent if the fund is unable to pay its outstanding lawful obligations as they mature in the regular course of business.

F. In the event of liquidation of a fund, the commissioner

shall levy an assessment upon its members for such amounts as the commissioner determines to be necessary to discharge all liabilities of the fund, including the reasonable costs of liquidation.

§16. Review of Rate Determination

Funds shall provide reasonable means whereby any member aggrieved by the application of the fund's rating system may, in writing, request a review of the manner in which such rating system has been applied in connection with the coverage afforded. The fund shall have 30 days from receipt to grant or deny the request, in writing. If the fund rejects such request or fails to grant or reject such request within such 30-day period, the member may, within 30 days following the expiration of such 30-day period, appeal to the commissioner, who, after a hearing held upon not less than 10 days' written notice to the member and to the fund, may affirm or reverse such action.

§17. Cease and Desist Orders

A. After notice and opportunity for a hearing, the commissioner may issue an order requiring a person or group to cease and desist from engaging in an act or practice found to be in violation of any provision of this regulation.

B. Upon finding, after notice and opportunity for a hearing, that any person or group has violated any cease and desist order, the commissioner may revoke the group's certificate of authority.

§18. Revocation of Certificate of Authority

After notice and opportunity for a hearing, the commissioner may revoke a group's certificate of authority if:

- (1) the group is found to be insolvent,
- (2) the group fails to pay any premium tax, regulatory fee or assessment, or special fund contribution imposed upon it,
- (3) the group fails to comply with any of the provisions of this regulation, or with any lawful order of the commissioner within the time prescribed,
- (4) the certificate of authority issued to the group was obtained by fraud,
- (5) there was a material misrepresentation in the application for the certificate of authority, or
- (6) the group or its administrator has misappropriated, converted, illegally withheld, or refused to pay over upon proper demand any monies held in a fiduciary capacity that belong to a member, an employee of a member, or another person.

§19. Examinations

The commissioner may examine the affairs, transactions, accounts, records, assets and liabilities of a fund as often as the commissioner deems advisable. The expenses of such examinations shall be paid by the fund being examined.

James H. "Jim" Brown
Commissioner

RULE

Department of Insurance Commissioner of Insurance

Regulation 43 Companies in Hazardous Financial Condition

Under the authority of R.S. 22:2(H), the Department of Insurance adopted the following statutory law administered by the Department of Insurance.

REGULATION 43 Standards and Authority of the Commissioner of Insurance Regarding Companies Deemed to be in Hazardous Financial Condition

§1. Authority

This regulation is adopted and promulgated by the Louisiana Department of Insurance pursuant to R.S. 22:2(H).

§2. Purpose

The purpose of this regulation is to set forth the standards which the Commissioner of Insurance (the "commissioner") may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to the public or to holders of their policies or certificates of insurance.

This regulation shall not be interpreted to limit the powers granted the commissioner by any laws or parts of laws of the state of Louisiana, nor shall this regulation be interpreted to supersede any laws or parts of laws of the state of Louisiana.

§3. Definitions

As used in this regulation, the following terms shall have the respective meaning hereinafter set forth:

1. *Control* — as defined in R.S. 22:1002(3).
2. *Person* — as defined in R.S. 22:1002(7).

§4. Standards

The following standards, either singly or a combination of two or more, may be considered by the commissioner to determine whether the continued operation of any insurer transacting an insurance business in this state might be deemed to be hazardous to the policyholders, creditors or the general public. The commissioner may consider:

1. adverse findings reported in financial condition and market conduct examination reports or reported in required financial reports;
2. the National Association of Insurance Commissioners Insurance Regulatory Information System, its related reports and caveats;
3. the ratios of commission expense, general insurance expense, policy benefits and reserve increases as to annual premium and net investment income which could lead to an impairment of capital and surplus;
4. the insurer's asset portfolio when viewed in light of current economic conditions is not of sufficient value, liquidity, or diversity to assure the company's ability to meet its outstanding obligations as they mature;
5. the ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the company's remaining surplus after taking into account the insurer's cash flow and the classes of business

written as well as the financial condition of the assuming reinsurer;

6. the insurer's operating loss in the last 12-month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets, and cash dividends paid to shareholders, is greater than 50 percent of such insurer's remaining surplus as regards policyholders in excess of the minimum required;

7. whether any affiliate, subsidiary or reinsurer is insolvent, threatened with insolvency, or delinquent in payment of its monetary or other obligations;

8. contingent liabilities, pledges or guarantees which either individually or collectively involve a total amount which in the opinion of the commissioner may affect the solvency of the insurer;

9. whether any person having control of an insurer is delinquent in the transmitting to, or payment of, net premiums to such insurer;

10. the age and collectibility of receivables;

11. whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of such insurer, fails to possess and demonstrate the competence, fitness and reputation deemed necessary to serve the insurer in such position;

12. whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry;

13. whether management of an insurer either has filed any false or misleading sworn financial statement, or has released any false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer;

14. whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner; or

15. whether the insurer has experienced or will experience in the foreseeable future cash flow and/or liquidity problems.

§5. Commissioner's Authority

A. For the purposes of making a determination of an insurer's financial condition under this regulation, the commissioner may:

1. disregard any credit or amount receivable resulting from transactions with a reinsurer which is insolvent, impaired or otherwise subject to a delinquency proceeding;
2. make appropriate adjustments to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates;
3. refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; or
4. increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise disclosed if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next 12-month period.

B. If the commissioner determines that the continued operation of the insurer licensed to transact business in this state may be hazardous to the policyholders or the general public, then the commissioner may, upon his determination, issue an order requiring the insurer to:

1. reduce the total amount of present and potential liability for policy benefits by reinsurance;
2. reduce, suspend or limit the volume of business being accepted or renewed;
3. reduce general insurance and commission expenses by specified methods;
4. increase the insurer's capital and surplus;
5. suspend or limit the declaration and payment of dividends by an insurer to its stockholders or to its policyholders;
6. file reports in a form acceptable to the commissioner concerning the market value of an insurer's assets;
7. limit or withdraw from certain investments or discontinue certain investment practices to the extent the commissioner deems necessary;
8. document the adequacy of premium rates in relation to the risks insured; or
9. file, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or on such format as promulgated by the commissioner.

If the insurer is a foreign insurer the commissioner's order may be limited to the extent provided by statute.

C. Within 30 days of receipt of notification of the order of the commissioner to the insurer made pursuant to Subsection B of this Section, the insurer may make written demand for a hearing pursuant to the provisions of Part XXIX of Chapter 1 of Title 22 of the Louisiana Revised Statutes of 1950; provided, however, that such a hearing will be held privately, unless the insurer requests a public hearing, in which case the hearing shall be public.

James H. "Jim" Brown
Commissioner of Insurance

RULE

Department of Insurance
Commissioner of Insurance

Regulation 44 Accelerated Benefits

Pursuant to the provisions of R.S. 22:644 of the Insurance Code and R.S. 49:950 et seq. of the Administrative Procedure Act, the Commissioner of Insurance has adopted Regulation 44. This regulation regulates accelerated benefit provisions in life insurance policies. It also establishes required standards for disclosure of information to purchasers of life insurance policies with accelerated benefit provisions. This regulation applies to both individual and group life insurance policies issued or delivered in this state.

Regulation 44 regulates life insurance policies which contain accelerated benefits provisions. It sets forth the definitions for key terms contained in such policies. It establishes required standards for disclosure of information to purchasers of such policies, regulates the payment of benefits to assignees and beneficiaries and waivers of premiums. It prohibits discrimination based upon "qualifying events". It also establishes actuarial standards and actuarial disclosure and reserve requirements to be followed by insurers which market such policies.

Regulation 44 Accelerated Benefits

§1. Purpose

The purpose of this regulation is to regulate accelerated benefit provisions of individual and group life insurance policies and to provide required standards of disclosure. This regulation shall apply to all accelerated benefits provisions of individual and group life insurance policies except those subject to the Long-Term Care Insurance Model Act, issued or delivered in this state, on or after the effective date of this regulation.

§2. Definitions

A. *Accelerated benefits* covered under this regulation—benefits payable under a life insurance contract:

- (1) to a policyowner or certificateholder, during the lifetime of the insured, in anticipation of death or upon the occurrence of specified life-threatening or catastrophic conditions as defined by the policy or rider; and
- (2) which reduce the death benefit otherwise payable under the life insurance contract; and
- (3) which are payable upon the occurrence of a single qualifying event which results in the payment of a benefit amount fixed at the time of acceleration.

B. *Qualifying event*—includes one or more of the following:

- (1) a medical condition which would result in a drastically limited life span as specified in the contract, for example, 24 months or less; or
- (2) a medical condition which has required or requires extraordinary medical intervention, such as, but not limited to, major organ transplant or continuous artificial life support, without which the insured would die; or
- (3) any condition which usually requires continuous confinement in an eligible institution as defined in the contract if the insured is expected to remain there for the rest of his or her life; or
- (4) a medical condition which would, in the absence of extensive or extraordinary medical treatment, result in a drastically limited life span. Such conditions may include, *but are not limited to*, one or more of the following:
 - (a) coronary artery disease resulting in an acute infarction or requiring surgery;
 - (b) permanent neurological deficit resulting from cerebral vascular accident;
 - (c) end stage renal failure;
 - (d) acquired Immune Deficiency Syndrome; or
 - (e) other medical conditions which the commissioner shall approve for any particular filing; or
- (5) other qualifying events which the commissioner shall approve for any particular filing.

§3. Type of Product

Accelerated benefit riders and life insurance policies with accelerated benefit provisions are primarily mortality risks rather than morbidity risks. They are life insurance benefits subject to 22:161-181; 22:191-197; and the applicable portions of Part XIV (22:611-672).

§4. Assignee/Beneficiary

Prior to the payment of the accelerated benefit, the insurer is required to obtain from any assignee or irrevocable beneficiary a signed acknowledgement of concurrence for payout. If the insurer making the accelerated benefit is itself the assignee under the policy, no such acknowledgement is required.

§5. Criteria for Payment

A. Lump Sum Settlement Option Required. Contract payment options shall include the option to take the benefit as a lump sum. The benefit shall not be made available as an annuity contingent upon the life of the insured.

B. Restrictions on Use of Proceeds. No restrictions are permitted on the use of the proceeds.

C. Accidental Death Benefit Provision. If any death benefit remains after payment of an accelerated benefit, the accidental death benefit provision, if any, in the policy or rider shall not be affected by the payment of the accelerated benefit.

§6. Disclosures

A. Descriptive Title. The terminology *accelerated benefit* shall be included in the descriptive title. Products regulated under this regulation shall not be described or marketed as long-term care insurance or as providing long-term care benefits.

B. Tax Consequences. A disclosure statement is required at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted that receipt of these accelerated benefits may be taxable and that assistance should be sought from a personal tax advisor. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents.

C. Solicitations

(1) A written disclosure including, but not necessarily limited to, a brief description of the accelerated benefit and definitions of the conditions or occurrences triggering payment of the benefits shall be given to the applicant. The description shall include an explanation of any effect of the payment of a benefit on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens.

(a) In the case of agent solicited insurance, the agent shall provide the disclosure form to the applicant prior to or concurrently with the application. Acknowledgment of the disclosure shall be signed by the applicant and writing agent.

(b) In the case of a solicitation by direct response methods, the insurer shall provide disclosure form to the applicant at the time the policy is delivered, with a notice that full premium refund shall be received if policy is returned to the company within the free look period.

(c) In the case of group insurance policies, the disclosure form shall be contained as part of the certificate of coverage or any related document furnished by the insurer for the certificateholder.

(2) If there is a premium or cost of insurance charge, the insurer shall give the applicant a generic illustration numerically

demonstrating any effect of the payment of a benefit on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens.

(a) In the case of agent solicited insurance, the agent shall provide the illustration to the applicant prior to or concurrently with the application.

(b) In the case of a solicitation by direct response methods, the insurer shall provide the illustration to the applicant at the time the policy is delivered.

(c) In the case of group insurance policies, the disclosure form shall be contained as part of the certificate of coverage or any related document furnished by the insurer for the certificateholder.

(3) Disclosure of Premium Charge

(a) Insurers with financing options other than as described in Section 10 A(2) and (3) of this regulation shall disclose to the policyowner any premium or cost of insurance charge for the accelerated benefit. These insurers shall make a reasonable effort to assure that the certificateholder is aware of any additional premium or cost of insurance charge if the certificateholder is required to pay such charge.

(b) Insurers shall furnish an actuarial demonstration to the state insurance department when filing the product disclosing the method of arriving at their cost for the accelerated benefit.

(4) Disclosure of Administrative Expense Charge. The insurer shall disclose to the policyowner any administrative expense charge. The insurer shall make a reasonable effort to assure that the certificateholder is aware of any administrative expense charge if the certificateholder is required to pay such charge.

D. Effect of the Benefit Payment. When a policyowner or certificateholder requests an acceleration, the insurer shall send a statement to the policyowner or certificateholder and irrevocable beneficiary showing any effect that the payment of the accelerated benefit will have on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens. The statement shall disclose that receipt of accelerated benefit payments may adversely affect the recipient's eligibility for Medicaid or other government benefits or entitlements. In addition, receipt of an accelerated benefit payment may be taxable and assistance should be sought from a personal tax advisor. When a previous disclosure statement becomes invalid as a result of an acceleration of the death benefit, the insurer shall send a revised disclosure statement to the policyowner or certificateholder and irrevocable beneficiary. When the insurer agrees to accelerate death benefits, the insurer shall issue an amended schedule page to the policyholder or notify the certificateholder under a group policy to reflect any new, reduced in-force face amount of the contract.

§7. Effective Date of the Accelerated Benefits

The accelerated benefit provision shall be effective for accidents on the effective date of the policy or rider. The accelerated benefit provision shall be effective for illness no more than 30 days following the effective date of the policy or rider.

§8. Waiver of Premiums

The insurer may offer a waiver of premium for the accelerated benefit provision in the absence of a regular waiver of premium provision being in effect. At the time the benefit is

claimed, the insurer shall explain any continuing premium requirement to keep the policy in force.

§9. Discrimination

Insurers shall not unfairly discriminate among insureds with differing qualifying events covered under the policy or among insureds with similar qualifying events covered under the policy. Insurers shall not apply further conditions on the payment of the accelerated benefits other than those conditions specified in the policy or rider.

§10. Actuarial Standards

A. Financing Options

(1) The insurer may require a premium charge or cost of insurance charge for the accelerated benefit. These charges shall be based on sound actuarial principles. In the case of group insurance, the additional cost may also be reflected in the experience rating.

(2) The insurer may pay a present value of the face amount. The calculation shall be based on any applicable actuarial discount appropriate to the policy design. The interest rate or interest rate methodology used in the calculation shall be based on sound actuarial principles and disclosed in the contract or actuarial memorandum. The maximum interest rate used shall be no greater than the greater of:

(a) the current yield on 90 day treasury bills; or

(b) the current maximum statutory adjustable policy loan interest rate.

(3) The insurer may accrue an interest charge on the amount of the accelerated benefits. The interest rate or interest rate methodology used in the calculation shall be based on sound actuarial principles and disclosed in the contract or actuarial memorandum. The maximum interest rate used shall be no greater than the greater of:

(a) the current yield on 90 day treasury bills; or

(b) the current maximum statutory adjustable policy loan interest rate. The interest rate accrued on the portion of the lien which is equal in amount to the cash value of the contract at the time of the benefit acceleration shall be no more than the policy loan interest rate stated in the contract.

B. Effect on Cash Value

(1) Except as provided in Section 10B(2), when an accelerated benefit is payable, there shall be no more than a pro rata reduction in the cash value based on the percentage of death benefits accelerated to produce the accelerated benefit payment.

(2) Alternatively, the payment of accelerated benefits, any administrative expense charges, any future premiums and any accrued interest can be considered a lien against the death benefit of the policy or rider and the access to the cash value may be restricted to any excess of the cash value over the sum of any other outstanding loans and the lien. Future access to additional policy loans could also be limited to any excess of the cash value over the sum of the lien and any other outstanding policy loans.

C. Effect of Any Outstanding Policy Loans on Accelerated Death Benefit Payment. When payment of an accelerated benefit results in a pro rata reduction in the cash value, the payment may not be applied toward repaying an amount greater than a pro rata portion of any outstanding policy loans.

§11. Actuarial Disclosure and Reserves

A. Actuarial Memorandum. A qualified actuary should describe the accelerated benefits, the risks, the expected costs and the calculation of statutory reserves in an actuarial memorandum accompanying each state filing. The insurer shall maintain in its files descriptions of the bases and procedures used to calculate benefits payable under these provisions. These descriptions shall be made available for examination by the commissioner upon request.

B. Reserves

(1) When benefits are provided through the acceleration of benefits under group or individual life policies or riders to such policies, policy reserves shall be determined in accordance with the Standard Valuation Law. All valuation assumptions used in constructing the reserves shall be determined as appropriate for statutory valuation purposes by a member in good standing of the American Academy of Actuaries. Mortality tables and interest currently recognized for life insurance reserves by the NAIC may be used as well as appropriate assumptions for the other provisions incorporated in the policy form. The actuary must follow both actuarial standards and certification for good and sufficient reserves. Reserves in the aggregate should be sufficient to cover:

(a) policies upon which no claim has yet arisen;

(b) policies upon which an accelerated claim has arisen.

(2) For policies and certificates which provide actuarially equivalent benefits, no additional reserves need to be established.

(3) Policy liens and policy loans, including accrued interest, represent assets of the company for statutory reporting purposes. For any policy on which the policy lien exceeds the policy's statutory reserve liability such excess must be held as a non-admitted asset.

§12. Filing Requirement

The filing and prior approval of forms containing an accelerated benefit is required.

James H. "Jim" Brown
Commissioner

RULE

Department of Natural Resources Office of Conservation

Underwater Obstructions (LAC 43:IX.301 and 311)

In accordance with R.S. 30:4 and Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby amends the following regulations regarding Underwater Obstructions—Site Clearance and Verification for Abandoned Oil and Gas Structures.

Title 43

NATURAL RESOURCES

Part XI. Office of Conservation - Pipeline Division

Subpart 2. Underwater Obstructions

Chapter 3. Underwater Obstructions

§301. Definitions

* * *

Coastal Waters—bays, lakes, inlets, estuaries, rivers, bayous, and other bodies of water within the boundaries of the coastal zone that have measurable seawater content under normal weather conditions over a period of years.

Lessee—for the purpose of this regulation, the lessee shall be considered the actual lessee or his assignees, the legal owner, or the operator at the time of abandonment.

Pipeline—all segments of pipe other than any field transmission, flow or gathering line with the exception of site clearance. For the purpose of site clearance, a pipeline shall be considered any size or type of pipeline (including flowlines).

Platform—any structure that has significant facilities supporting exploration or production operations, including but not limited to pumping, injection, compression, transmission, quartering, or primary, secondary or tertiary oil, gas, or water treatment.

Single or Multi-well Caisson or Templet—any structure that has no significant facilities supporting exploration or production operations. Pipes, valves, manifolding, and vent stacks are not considered a significant facility.

State Waterbottoms—the state-owned lands lying beneath the territorial sea, arms of the sea and all waterbottoms that are navigable in fact within the Louisiana coastal zone as defined in R.S. 49:213.3(4).

Territorial Seas—the belt of the seas measured from the line of ordinary low water along that portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of coastal waters, and extending three miles seaward as set by decree of the United States Supreme Court in 1975 as being the three-mile limit and all state-owned waterbottoms.

AUTHORITY NOTE: Promulgated in accordance with RS 30:4-D through 4-H.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:702 (July 1985), amended LR 18: (December 1992).

§311. Abandoned Facilities

* * *

E. All abandoned well and platform locations on state water bottoms in the Gulf of Mexico and adjacent bays and inlets shall be cleared of all related obstructions by the owner of such facilities. All owners shall comply with the following clearance and verification requirements and procedures:

1. All abandoned well and platform locations shall be cleared of all obstructions present as a result of oil and gas activities unless otherwise approved by the commissioner of conservation. For clearance purposes, the locations shall be defined as below:

a. *Exploratory, dry hole, delineation, or other wells that have not been produced for purposes other than production tests* - In open water (territorial seas and coastal waters), the area covered by a 300-foot radius circle centered on the well,

depending on site specific conditions. In a canal, bayou, river, or other similarly restricted waterway a maximum linear distance 100 feet upstream and downstream from the location of the well, depending on site specific limitations.

b. *Platforms* - In territorial seas, the area covered by a 1,320-foot radius circle centered on the platform geometric center. In coastal waters, the area covered by a 400-foot radius circle centered on the platform geometric center, depending on site specific conditions. In a canal, bayou, river, or other similarly restricted waterway, a maximum linear distance 400 feet upstream and downstream from the location of the well depending on site specific limitations.

c. *Single or multi-well caisson or templet* - In open water (territorial seas and coastal waters), the area covered by a 400-foot radius circle centered on the well, depending on site specific conditions. In a canal, bayou, river, or other similarly restricted waterway a maximum linear distance 100 feet upstream and downstream from the location of the well depending on site specific limitations.

2. A procedural plan for site clearance verification of platform, well or structure abandonment (§311.E.1.b or §311.E.1.c) shall be developed by the lessee and submitted to the commissioner of conservation for approval with the permit application for platform or structure removal. Vessels used for site clearance verification operations in territorial seas shall be equipped with a navigational positioning system capable of providing position accuracy of ± 30 feet. The navigational system proposed for use must be identified in the procedural plan. Vessels used for site clearance verification operations in coastal waters and shallow (five feet or less below mean sea level) territorial seas are not required to be equipped with a navigational system provided alternate methods for insuring proper positioning during site clearance verification operations are described in the plan submitted for approval. Each such plan and application shall be accompanied by a filing fee of \$600.

a. Sites defined in §311.E.1.b and §311.E.1.c located in water depths greater than or equal to five feet below mean tide level but less than 200 feet shall have their locations verified clear over 100 percent of their limits in open waters or the length of the location in restricted waters. Trawling is the preferred method of site clearance verification, however alternative methods may be approved by the commissioner. Sites defined in §311.E.1.a need not be trawled provided approval is obtained from the Office of Conservation for an alternate method of site clearance verification. If an alternate method (e.g., diver survey) is proposed, operational plans must adequately be described in the procedural plan submitted for approval.

i. Trawling contractors performing site clearance verification work shall possess a valid commercial trawling license for both the vessel and the captain. Further, the captain must have prior experience in trawling operations for two consecutive years immediately prior to performing the work.

ii. The trawling vessel used in verification activities in open water must be equipped with a navigational system and plotter that will produce a real time track plot of the vessel position or capable of producing a hard copy post plot on board

the vessel of any or all lines in order to verify that the area has been satisfactorily covered prior to departure of the trawling vessel. The track plot must have a minimum scale of 1"-400' (1:4800).

iii. The trawling vessel must be outfitted with trawling nets with a maximum stretched mesh size of six inches and constructed of twine no stronger than #18 twine (ribbon strength). These nets shall not be equipped with turtle excluder devices (TED's). Trawls shall be picked up after a maximum drag time of 30 minutes and all fish, crabs, and shrimp caught in the trawl must be released. The Eighth Coast Guard District Law Enforcement Branch and the Department of Wildlife and Fisheries Enforcement Section shall be notified of any site clearance verification trawling operations 48 hours prior to commencing such activities. When trawling in areas where pipelines, snags, or shipwrecks are known to exist, the following guidelines shall be followed:

NOTE: It is suggested that the operator or the trawling contractor contact the Fishermen's Gear Compensation Fund and U.S. Coast Guard Notice to Mariners to identify any recorded snags within the area to be trawled.

(a). There are no restrictions to be placed on the trawling procedure or pattern for abandoned pipelines. It is the responsibility of the lessee (or operator) performing the site clearance verification activities to contact the former pipeline owner (or operator) and determine whether or not the line will cause an obstruction to unrestricted trawling operations.

(b). In general, trawling should not be conducted closer than 300 feet to any existing pipeline, structure, well, snag or shipwreck, but this distance may be reduced depending on the conditions existing at a particular site.

(c). Active pipelines which are buried and for which no above grade obstructions (such as valves) exist must be trawled without any restrictions placed on the trawling procedure or pattern. It is the responsibility of the lessee (or operator) performing the site clearance verification activities to contact the pipeline owner (or operator) and determine the condition of such pipelines within the area to be trawled.

(d). For unburied active pipelines which are eight inches in diameter or larger, and for unburied smaller diameter lines which have obstructions (e.g., valves) present, trawling shall be carried out no closer than 100 feet to either side and in the same direction as (parallel to) the line. Trawling shall not be carried out across the line.

(e). For unburied active pipelines which are smaller than eight inches in diameter and have no obstructions present, trawling must be carried out in the direction of the line and trawling on top of the line is acceptable. Trawling shall not be carried out across the line.

iv. Trawling grid patterns (track lines) shall be spaced no more than a distance equal to one-half the width of the net mouth opening. For example, a vessel trawling with a net with a 40-foot mouth opening must be trawled on a 20 foot or smaller grid pattern.

b. Any modifications to the requirements to trawl the site must be approved by the commissioner of conservation. All man-made objects encountered on the seabed which are known (or suspected) to be present as a result of oil and gas activities shall be removed from the seabed or other remedial action taken

and reported as specified below unless otherwise approved by the commissioner of conservation. Any grid line that is found to have a snag that is not recovered in the trawl must be re-trawled after snag recovery operations are completed. In those instances where the trawling effort is interrupted for any reason and then continued again, overlap of areas trawled (or to be trawled) trawling shall be resumed at a location and in a direction to ensure 100 percent coverage of the site clearance area.

c. The lessee shall notify the commissioner of conservation at least 48 hours prior to conducting the clearance survey. All casing and anchor piling shall be removed to a depth of at least 10 feet below the mudline.

d. For areas with more than one facility to be abandoned, with overlapping site clearance areas, the operator/owner may submit a site clearance plan to the commissioner of conservation for the composite area. A completed plan must be submitted upon removal of the last facility within the area.

3. Within 90 days of completion of platform or structure removal/abandonment operations, site clearance verification shall be completed as specified in the approved plan unless otherwise approved by the commissioner of conservation. Until site clearance verification procedures have been completed, the location shall be marked as a hazard to navigation in accordance with U.S. Coast Guard regulations unless otherwise approved. Verification letters from the company performing the salvage/clearance work and the trawling contractor shall be submitted with the well clearance or platform removal report and, as appropriate, shall include the following:

a. The date(s) the work was performed and vessel involved.

b. A statement from both the salvager and trawling contractor that no objects were recovered, or general categorical descriptions of the objects that were recovered. The trawler must note the general contents of the nets on each trawling pass. Examples of categories of debris recovered are:

- i. pipe;
- ii. grating;
- iii. plate;
- iv. structural shapes;
- v. tires;
- vi. batteries;
- vii. wire rope;
- viii. hoses; or
- ix. other. All material recovered must be disposed of properly.

c. Details and results of any alternate methods of site clearance verification performed, i.e., the diver search pattern and equipment used, or the type of sonar equipment used, including instrument deployment method, frequency, range, and height above the seafloor, and a record of the scans with range and scale noted accompanied by an interpretation of the seabed features shown.

d. Details and results of the trawling operations, i.e., post job plot or map showing (minimum scale 1" = 400') the pattern in which the trawl was pulled, the size and description of the trawl, grid line numbers corresponding to those used in the trawler's report, location center latitude and longitude, the

positioning system and calibration method(s) used and any interruptions experienced during the survey;

e. A letter signed by an authorized lessee/operator company representative stating that he/she witnessed the site clearance operations and subsequent verification surveys shall also be submitted with the well clearance report or report of platform or structure removal;

f. All reports, forms, and letters shall be submitted to the office of conservation no later than 90 days following completion of trawling operations.

AUTHORITY NOTE: Promulgated in accordance with RS 30:4-J.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 18: (December 1992).

H. W. Thompson
Commissioner

RULE

Department of Revenue and Taxation Sales Tax Division

Pollution Control Devices-Sales Tax Relief (LAC 61:I.4302)

The Department of Revenue and Taxation has adopted a rule to be cited as LAC 61:I.4302. The rule, promulgated pursuant to Act 1019 of the 1991 Legislative Session of the Legislature, sets forth the qualification criteria and application procedures for the state sales tax relief provided under R.S. 47:301(10)(1), which excludes pollution control devices and systems from the definition of "sale at retail."

Title 61

Revenue and Taxation

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 43. Sales and Use Tax

§4302. Pollution Control Devices and Systems Excluded from the Definition of "Sale and Retail"

A. This Section describes the conditions under which certain sale or lease transactions involving tangible personal property used for pollution control purposes may be excluded from the definition of "sale at retail" for purposes of the three percent tax levied by this Chapter and the Louisiana Tourism Promotion District. It contains the qualifications which must be met by the property under consideration, the requirements which are imposed upon the applicant for the tax relief granted under this act, and the procedures to be followed in applying for the relief.

B. Definitions. For purposes of this Section, the following terms shall have the meaning ascribed herein:

1. *Pollution Control Device or System* — any one or more pieces of tangible personal property which is intended and installed for the purpose of eliminating, preventing, treating, or reducing the volume or toxicity or potential hazards of industrial pollution of air, water, groundwater, noise, solid waste, or hazardous waste in the state of Louisiana and which has been approved by the Department of Environmental Quality

and the Department of Revenue and Taxation for the tax relief granted by this act.

2. *Pollution* — the environment of the state by any means that would tend to degrade the chemical, physical, biological, or radiological integrity of such environment. Pollution includes solid waste, hazardous waste, sludge, chemical waste, radiological wastes, noise, and any other pollutants resulting from industrial emissions, discharges, or releases into air, water, or land.

3. *Act or This Act* — Act 1019 of the 1991 Regular Session of the Louisiana Legislature.

4. *Industrial Application* — the use, construction, or installation of a pollution control device or system by a business which is primarily engaged in the exploration for or mining of minerals, the manufacture or processing of raw materials into tangible personal property for resale, or the processing, treatment, disposition, control or containment, of polluting materials produced by another business.

C. *Qualifications*. To qualify for the tax relief provided under this Act, a pollution control device or system must comply with the following requirements:

1. It must demonstrate to the Department of Environmental Quality its efficacy to a particular process or application. The equipment must be approved by both the Department of Environmental Quality and the Department of Revenue and Taxation in order to be excluded from the definition of "sale at retail" for state sales and use tax purposes.

2. It (or the applicant) must demonstrate either:

a. a net decrease in the volume or toxicity or potential hazards of pollution as a result of the installation of the device or system; or,

b. that installation is necessary to comply with federal or state environmental laws or regulations.

3. It must be intended for use in an industrial application. Use in residential, commercial, recreational, or other applications do not qualify.

D. *Restrictions*. This exclusion and the tax relief provided under this Act does not apply to:

1. modifications to processes carried out primarily for reasons other than the reduction of pollution;

2. installation or replacement of existing process units carried out primarily for reasons other than the reduction of pollution;

3. vehicles used to assist in operations.

E. *Application and Documentation*

1. Applicants seeking relief under this Act must submit an application to the Department of Revenue and Taxation for a certification of the pollution control device or system.

2. The respective departments may require the applicant to provide cost estimates, engineering drawings, equipment specification sheets, and any other documentation necessary to establish the identity and value of the property qualifying for the exclusion. The documentation must be sufficient to enable the Department of Environmental Quality to establish the efficacy of the pollution control device or system, and to allow the Department of Revenue and Taxation to ascertain the allowable tax relief.

3. After receiving certification from the Department of Environmental Quality, a certificate of tax exclusion and/or

refund of taxes paid on approved pollution control equipment will be issued by the Department of Revenue and Taxation. Applicants must assemble and consolidate all invoices on purchases made by themselves and their subcontractors. Refunds will not be issued to subcontractors.

a. Owners and/or operators of qualifying pollution control devices or systems may apply for certification and refund of taxes paid on or after September 6, 1991, and prior to the date of certification.

b. In order for a pollution control device or system to qualify as tax free at the time of purchase, applicants must have received a certification of approval from the Department of Environmental Quality and the Department of Revenue and Taxation prior to the purchase or lease of the equipment. The applicant, or contractors who are duly authorized to act as an agent of the applicant, may present an approved certification in lieu of the tax at the time of purchase.

c. If the application for the tax exemption on the pollution control device or system cannot be processed and approved before purchases are made or property is imported into the state for the project, the state sales or use tax shall be paid at the time of purchase or importation. Tax refunds will be issued upon approval of the project and the filing of proper claims. Applicants filing for refunds will have purchased and installed, or intend to install, the pollution control device or system.

4. The owner and/or operator must report the final cost of the pollution control devices or systems to the Department of Revenue and Taxation. Audits and inspections may be performed by the respective departments to ascertain the efficacy of the equipment. The tax refund will be forfeited if the pollution control device or system does not meet the requirements of this act.

5. Approval of the equipment for a sales tax refund does not relieve the applicant from obtaining any other permits otherwise required for the pollution control device or system, including permits to install or construct prior to start of construction.

6. Each application for tax relief must be signed by an officer, principal, or other person authorized to act in the behalf of the applicant, and must be accompanied by a certification affidavit executed by the owner and/or operator and a certification affidavit executed by a professional engineer. Both certification affidavits will be prepared on the application form supplied by the Department of Revenue and Taxation.

F. Confidentiality

Applications and all documentation and cost information which are submitted to the Department of Revenue and Taxation under this Act are considered confidential taxpayer information under the provisions of R.S. 47:1508. Information which pertains to pollution control devices or systems costs will be maintained only at the office of the Department of Revenue and Taxation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:301(10)(l).

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 18: (December 1992).

Ralph Slaughter, CPA
Secretary

RULE

Department of Social Services Office of The Secretary

Child Care Assistance Program-Repeal Title IV-A At-Risk (LAC 67:I.101,102)

The Department of Social Services, Office of the Secretary adopted the following rule in the Child Care Assistance Program effective December 20, 1992.

This rule removes eligibility requirements for the Title IV-A At-Risk Child Care program, which was not implemented as originally planned, because of a lack of available funds.

Title 67

SOCIAL SERVICES

Part I. Office of the Secretary

Chapter 1. Child Care Assistance Program

§101. Child Care and Development Block Grant - Eligibility Requirements

A. Child Care and Development Block Program

1. household income does not exceed 75 percent of the state median income for a household of the same size.

* * *

6. the family requests child care services, provides the information necessary for determining eligibility and fees, and meets appropriate application requirements established by the state.

§102. Child Care Providers

* * *

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, 99, 255 and 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18: (December 1992).

Gloria Bryant-Banks
Secretary

RULE

Department of Transportation and Development Office of Engineering

Utility Relocation Assistance Funding (LAC 70:III.1101)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Louisiana Department of Transportation and Development adopted the following rule entitled "Utility Relocation Assistance Funding", in accordance with the provisions of R.S. 48:381.

Title 70

TRANSPORTATION

Part III. Highways/Engineering

Chapter 11. Utility Relocation Assistance Funding

§1101. Introduction

When a publicly owned, non-profit utility is not able to bear

its share of the cost for adjusting its facilities to accommodate a highway project, it may apply for funding under R.S. 48:381(C), hereinafter referred to as Utility Relocation Assistance Funding (URAF).

A. General Conditions

1. In order to qualify for URAF funds, a utility must be owned by a governmental body such as a municipality or parish, or be a non-profit utility.

2. In order to qualify for URAF funds, a utility must be financially unable to bear its share of the adjustment expense.

3. URAF funding is neither a loan nor a grant and there is no interest charged on this money. However, the utility must repay this money eventually, or it will not be allowed to locate its facilities within highway right-of-way.

4. Highway adjustments are considered normal, foreseeable maintenance for utilities located on highway right-of-way.

B. Procedure

1. The publicly owned or non-profit utility informs the headquarters utility and permit engineer, in writing, that it is not financially able to bear the cost of adjusting its facilities, and formally requests URAF funding.

2. The headquarters utility and permit engineer requests the Legislative Auditor to examine the utility's records to determine the utility's eligibility for URAF funds.

3. The Legislative Auditor examines the utility's records and informs the headquarters utility and permit engineer of the utility's eligibility for URAF funds.

4. If the utility is eligible for URAF funds, executed agreements are converted to URAF agreements, and/or new agreements are executed as necessary.

5. The Federal Highway Administration is advised when URAF funds are approved for federal aid projects.

6. Issuance of permits to the utility is suspended, and the utility is added to the URAF database. Note that the suspension does not include most crossings.

7. The final amount of URAF funds used is added to the URAF database after final payment is made.

8. After final payment is made, Department of Transportation and Development Project Control is informed of the total amount of URAF funds used and bills the utility accordingly.

9. Issuance of permits to the utility will remain suspended until Department of Transportation and Development Project Control notifies the utility and permit section that the utility has repaid the full amount to the Department of Transportation and Development. The utility may repay this amount as a lump sum, in partial amounts, in exchange for goods and/or services, or in any combination thereof. Department of Transportation and Development Project Control shall notify the headquarters utility and permit engineer of any payments as soon as they are received. Note that an exchange of goods or services is at the discretion of the Department of Transportation and Development. Note that the Federal Highway Administration anticipates in URAF costs. It is the responsibility of Department of Transportation and Development Project Control to credit Federal Highway Administration, at its participating percentage, for any funds that are repaid.

C. Issuance of Permits

1. General issuance of permits may resume if the utility

shows a good faith effort to repay this debt by making annual payments to Department of Transportation and Development of 5 percent of its gross income, or 10 percent of its outstanding URAF debt. The first payment must be made within one year of the date of invoicing of the utility by Department of Transportation and Development, and issuance of permits shall remain suspended until the first payment is made. The utility's payments shall be due by January 15 of each year. The Department of Transportation and Development shall suspend issuance of permits to any utility that fails to submit payment by this date. Partial payments will be accepted as payment toward the total debt; however, issuance of permits shall be suspended when a utility fails to make the required minimum payment. Since these options were not available prior to the promulgation of these rules, issuance of permits to utilities that have URAF agreements that were executed prior to January 1, 1993, may resume, if the utility begins to show a good faith effort to repay this debt, by making annual payments to DOTD of 5 percent of its gross income, or 10 percent of its outstanding URAF debt, by January 15, 1995. When issuance of permits is suspended because the utility failed to make the required minimum payment by the specified deadline, issuance may resume after the utility makes the minimum required payments on time for a period of three consecutive years, or by making a lump sum payment of 25 percent of the total remaining URAF funds owed to DOTD.

2. When in the best interest of the public, specific permits may be issued to utilities, without removing the general suspension, under the following circumstances:

a. eminent danger to the public or to the highway as the result of a damaged or faulty facility that is located within highway right-of-way, such as:

i. a leaking water or sewer line that is eroding the right-of-way;

ii. a leaking or exposed gas line, at Department of Transportation and Development discretion, these facilities may be repaired or replaced with a similar facility of equal capacity;

b. insufficient right-of-way available to place distribution lines to serve properties adjacent to the highway. This may occur in highly urbanized areas where there is no room to place utilities between the edge of the highway right-of-way and an adjacent structure, and the adjacent property cannot be accessed through an alternate route. If the physical space is available, the utility shall use its expropriation rights to secure the necessary right-of-way for its facilities.

AUTHORITY NOTE Promulgated in accordance with R.S. 48:381(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 18: (December 1992).

Jude W. P. Patin
Secretary

RULE

Department of Treasury Board of Trustees of the State Employees Group Retirement System

Retiree Benefits Voluntary Payroll Deductions

(Editor's Note: The following rule was inadvertently omitted from the November, 1992 issue of the Louisiana Register, and, therefore, has an effective date of November 20, 1992.)

The Board of Trustees of the State Employees' Retirement System hereby gives notice in accordance with law that it has adopted the following rule for voluntary deductions from retiree benefits payroll.

POLICY FOR VOLUNTARY DEDUCTIONS FROM RETIREE BENEFITS PAYROLL

Application Process

1. Application shall be made by the company, corporation or organization which is the provider of coverage, product, service or recipient of monies and shall be signed by two officers of the applicant company, corporation or organization. The completed application must be submitted to the Louisiana State Employees' Retirement System (LASERS).

2. The following type providers of services will be considered for approval:

- a. the State Group Benefits Program;
- b. the group insurance plan administered by the Department of Employment and Training;
- c. the Retired State Employees' Association;
- d. general insurance companies and other providers that are included on the annual listing maintained by the Office of State Uniform Payroll;
- e. credit unions formed for the primary purpose of serving state employees that have a payroll deduction for employees of the member agencies;
- f. other member or retiree associations approved by the Board of Trustees; and
- g. vendors receiving payment through voluntary deductions on the effective date of this policy.

3. Applicant shall designate a "coordinator" to act as primary contact with LASERS for resolution of invoicing, refund and reconciliation problems; and resolving claims problems for retirees.

4. All vendors shall file annual renewal applications with LASERS.

5. Applications must be received by LASERS between June 1 and July 30 of each year.

Applicant and Vendor Requirements

1. General insurance vendors must meet the requirements established by the Division of Administration and must be included on the annual listing maintained by the Office of State Uniform Payroll.

2. Any provider who qualifies to submit an application under Section 2.e or g above must meet the regulatory requirements of the appropriate federal or state regulatory agency.

Notification, Implementation and Transition

1. LASERS will notify applicant whether applicant is approved as a vendor.

2. Vendor must enroll retirees for a monthly deduction amount.

3. Participation must be at least 100.

4. Vendors participating in payroll deduction on the effective date of this rule shall continue to be approved as a vendor; however, they must complete an annual application form.

5. Vendors will be allowed 18 months after initial approval to meet the minimum participation requirements.

Deduction Authorization

1. Vendors shall be responsible for obtaining and maintaining appropriate deduction authorizations from individual retirees. Copies must be made available to LASERS upon request.

2. Any disclaimer, contract, or term of participation agreement between the retiree and the vendor or provider shall not be binding on LASERS.

3. A retiree shall have only one monthly deduction (which may cover more than one benefit) for a single vendor effective at any one time.

4. Vendor is responsible for submitting a computer tape of monthly deductions to LASERS by the twelfth day of the month preceding the deduction using the tape format and specifications established by LASERS. All deductions for one vendor must be submitted on one monthly tape.

5. A retiree may discontinue any voluntary payroll deduction amount by providing written notification of that intent to the vendor.

6. A retiree cannot authorize total deductions which exceed the amount of the benefit less \$5.

Solicitation of State Retirees

1. Retirees may be solicited for payroll deduction only after the vendor has been notified that the application has been approved. Materials used for solicitation must be approved in advance by LASERS and must include a disclaimer that the product offered is not endorsed by LASERS. Solicitation materials are to be submitted with the annual renewal application.

Vendor Responsibilities

1. Vendor coordinator shall be responsible for dissemination of information such as the requirements of this rule to vendor representatives and must submit solicitation material to LASERS for approval.

2. Vendor shall use invoice/billing identification structure specified by LASERS to facilitate the monthly reconciliation.

3. Vendor shall be responsible for preparing a reconciliation of monthly payroll deduction.

4. Monthly reconciliation shall include total monthly invoice amount, remittance amount, and a listing of all changes since the last invoice amount to include a listing of exceptions between the invoice and deduction/remittance by system.

5. Monthly reconciliation exception listing shall identify the retiree by social security number.

6. Vendor must furnish evidence of monthly reconciliation to LASERS unless specifically exempted by LASERS.

7. Vendors failing to provide accurate and timely reconciliation verification will be barred from active solicitation until satisfactory certification is submitted to LASERS.

8. Vendors shall not be authorized to submit any deduction which was obtained from a retiree for the purpose of transmitting any part of that deduction to a third party.

9. Vendors must designate/identify specific products or basic services provided on the application form. Vendors must indicate whether the request (for each product or service) is for continuation/renewal or new/not previously approved for payroll deduction. Vendors shall not add products or services to payroll deduction which are not indicated on currently approved application.

10. The vendor is responsible for refunding any amounts deducted in error to the individual retiree.

11. Any information received from LASERS must be handled in a confidential manner.

Lasers Responsibilities

1. LASERS will approve or reject solicitation material presented by designated coordinators of approved vendors.

2. LASERS shall be responsible for making the monthly deductions in the amount that are timely submitted by the vendor.

3. LASERS will remit the amount deducted to the vendor and will provide a listing of all exceptions.

Reporting

1. Vendors shall report within 10 days of final approval any change in the name, address, company status, principal officers, and designated coordinator to LASERS.

2. Vendors shall provide as required by LASERS data, disks, mailers, labels, postage, or other supplies necessary to avoid cost to the system in providing deduction information.

3. Annual renewal applications shall list specific products or services provided. Deductions will be made only for the products or services listed on the annual application.

4. Vendors are required to report the dismissal of any representative participating in retiree payroll deduction to LASERS.

Fees

1. Data, information, reports, labels, or any other service provided to any vendor or any other party shall be subject to payment of a fee for the cost of providing the data, information, report labels, and/or services as established by LASERS.

2. Fees assessed shall be satisfied in advance of receipt of the requested data.

Termination of Payroll Deduction

1. Unethical conduct or practices of the vendor will result in the termination of deduction authority for that vendor.

2. Unethical or unprofessional conduct of any vendor representative shall result in that individual being barred from participation in retiree payroll deduction for any vendor.

3. Payroll deduction authority shall be revoked for any vendor that is removed from the annual listing maintained by UPS.

4. Payroll deduction authority may be revoked for any vendor that fails to comply with requirements of this rule.

General

1. Payroll deduction authorization shall not be transferred.
2. Approval of an applicant in no way constitutes endorsement or certification of the applicant/vendor or its products or services.

Thomas D. Burbank, Jr.
Executive Director

RULE

Department of Treasury Bond Commission

Reporting Requirements for Bond Issuer

No later than 70 days after the closing and delivery of bonds by any issuer, said issuer or its representative shall submit to the State Bond Commission a final report with respect to such issue. This final report shall be in a form provided by the State Bond Commission and shall provide information with respect to the final size of the issue, maturities and interest rates, all costs of issuance paid from bond proceeds and/or other sources.

Mary L. Landrieu
State Treasurer and Chairperson

RULE

Department of Treasury Deferred Compensation Commission

Member Nomination and Election

In accordance with the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.) notice is hereby given that the Deferred Compensation Commission has amended the Deferred Compensation Commission Procedures governing nomination and election of participant members. Effective date of these amendments is January 1, 1993.

Procedures Governing the Nomination and Election of Participant Members

1. On or before the first day of January of each year, the commission shall appoint a nominating committee consisting of five participants, no two of whom are employed by the same department of state government and none of whom are members of the commission. Public notice of the appointment of the nominating committee shall be given in the same manner as that required for giving public notice of meetings of the commission.

2. The nominating committee shall submit to the commission the name of at least one participant for each vacancy that has occurred and the name of at least one participant for each term that is about to expire. Only participants who have been participants for more than two years prior to the date on which the term begins may be nominated.

3. Upon the receipt of the report of the nominating committee, the commission shall notify personnel officers of the receipt of the said report and shall request personnel officers to notify participants (by posting a notice in appropriate places or by other means) that the said report has been received and that additional nominations may be made by petition.

4. A participant may be nominated by petition if the petition contains the signatures of 12 participants and is received by the commission chairman or his/her designee prior to the deadline set forth in the notice supplied to personnel officers pursuant to Section 3 above. Only participants who have been participants for more than two years prior to the date on which the term begins may be nominated by petition. Petitioning participants' signatures must be accompanied by their social security numbers. Each petition must be accompanied by a statement signed by the nominee in which the nominee expresses his or her willingness to serve if elected.

5. In the event two or more participants are nominated for a position on the commission, the commission chairman shall conduct a drawing to determine the order in which candidates' names will appear on the ballot. All nominees for a position shall be invited by the chairman to attend the drawing. Each ballot shall contain, in addition to the name of the nominee(s), a statement containing no more than 35 words, which statement shall be prepared by the nominee and shall contain biographical information and/or a statement concerning the nominee's position on one or more issues pertinent to the deferred compensation program. If and when the commission determines that the use of photographs of the nominees on the ballots will be feasible, the chairman shall provide all nominees with the opportunity to submit suitable photographs of themselves for use in preparation of the ballots. The submission of such a photograph shall be optional for each nominee.

6. A participant shall be eligible to participate in an election if that participant receives a first quarter statement of his account with the Louisiana Deferred Compensation Plan during the year in which the election is held. Ballots shall be distributed to participants with their first quarter statements. Each ballot shall be accompanied by a ballot envelope (clearly marked with instructions that the completed ballot shall be placed therein and the envelope sealed), a mailing envelope on which is printed the name and address of the commission, and a signature slip.

7. The participant's signature must appear on the signature slip together with the participant's social security number. The signature slip and the ballot envelope shall be placed in the mailing envelope. The signature slip must not be placed in the ballot envelope. The mailing envelope shall be mailed or delivered to the commission at the address printed on the mailing envelope.

8. The commission or the commission chairman, if authorized by the commission, shall appoint a ballot counting

committee and the commission chairman shall invite all nominees to be present for the ballot counting.

9. The deadline for return of ballots and the date on which ballots will be counted shall both be fixed by the commission or by the commission chairman, if authorized by the commission.

10. Prior to counting the ballots, the ballot counting committee shall make such verification as is deemed appropriate. The committee shall also place the verified signature slip and the sealed ballot envelope in separate places of safekeeping pending the count of the vote. In the case of a questionable or challenged signature slip, the committee shall retain the signature slip and the sealed ballot envelope together until the verification has been completed or the challenge has been resolved.

11. No nominee shall be required to receive a majority of the votes in order to be elected. The nominee receiving a plurality of the votes cast shall be declared elected. In the event two or more nominees receive the same number of votes, the winner shall be chosen by the toss of a coin.

12. All participants shall be notified by means of a notice mailed to them with fourth quarter statements that an election will be held, and that ballots will be distributed to them with the first quarter statements.

13. Upon completion of its work, the ballot counting committee shall submit a written report to the chairman concerning the result of the election. The chairman shall make public the result of the election at the next commission meeting.

Kenneth C. DeJean
Secretary

RULE

Department of Treasury Teachers' Retirement System

Deferred Retirement Option Plan

Notice is hereby given that the Board of Trustees of the Teachers' Retirement System, pursuant to notice of intent published September 20, 1992, and under authority contained in R.S. 11:702, and Act 61 of the 1991 Regular Session, adopted amendments to Policies for Implementation of the Deferred Retirement Option Plan as follows:

* * *

6.c. completion of selected DROP participation period and termination of employment except when the DROP participation period is completed on any day other than the last day of any month. In such cases, the DROP account deposit shall be prorated to coincide with the date of completion of DROP participation and termination of employment. Retirement benefits shall begin the day after completion of the DROP participation period and termination of employment.

* * *

11. When termination of DROP occurs because of the death of the DROP participant, the participant is considered

retired the day death occurs, and retirement benefits will become effective for the regular and DROP beneficiary(ies) on the first day of the month immediately following the death of the participant.

If the death occurs in the absence of the Affidavit of Plan Election the deceased participant will be treated as a non-retired, active death, and benefits will be paid to eligible survivors including spouses, spouses with minor children, minor children and non-spousal beneficiaries other than minor children in accordance with R.S. 11:762(B), (C), (D) and (F).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:786-791 and R.S. 11:762 (B), (C), (D) and (F).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), LR 18: (December 1992).

James P. Hadley, Jr.
Director

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Striped Mullet

The Wildlife and Fisheries Commission does hereby adopt a rule establishing zones, seasons, permits, fees, daily limits, and gears for the taking of striped mullet. Authority for adoption of this rule is included in R.S. 56:333 and 56:325.1.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing §343. Rules for the Harvest of Striped Mullet

A. Seasons. A framework of seasons is hereby set for the harvest of mullet. A "pre-ro" season is set to run from 12:01 a.m. September 15 until midnight October 14 of each year. A "ro" season is set to run from 12:01 a.m. October 15 until midnight January 14 of the following year. A "non-ro" season is set to run from 12:01 a.m. January 15 until midnight September 14 of each year.

B. Commercial Limits. During the "pre-ro" season, there shall be a commercial daily take and possession limit of 200 pounds of mullet per permit holder or per vessel, whichever is less. During the "ro" season, there shall be no daily take or possession limit for the commercial harvest of mullet by properly licensed and permitted fishermen. During the "non-ro" season, there shall be a commercial daily take and possession limit of 1,500 pounds of mullet per permit holder or per vessel, whichever is less.

C. Recreational Limits. The daily take and possession limit for recreational harvest of mullet shall be 100 pounds per person, year round.

D. In addition, all provisions of R.S. 56:333(B)(3) and (4), and 56:333(C) are hereby adopted and incorporated into this rule.

E. A violation of the provisions of this rule shall be a class three violation, R.S. 56:33, in accordance with R.S. 56:333(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:333, 56:325.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18: (December 1992).

James H. Jenkins, Jr.
Chairman

NOTICES OF INTENT

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Certification of Eligibles

The State Civil Service Commission will hold a public hearing on January 6, 1993, to consider the following rule proposal. The hearing will begin at 8 a.m. and be held at the Department of Civil Service, Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

The following is to be considered at the meeting:

RULE PROPOSAL

8.4 Certification of Eligibles

a-d. . . .

e. An applicant who has obtained a baccalaureate degree from an accredited college or university with an overall grade-point average (GPA) of 3.5 or higher may be probationally appointed under the provisions of this rule to any professional level job for which possession of the baccalaureate degree alone is sufficient to meet the minimum qualifications. Jobs for which the applicant needs additional experience beyond the baccalaureate degree are excluded from this rule. The applicant must provide an official transcript to verify the GPA prior to appointment. The transcript should be submitted with the SF-1 (personnel action) effecting the appointment. Applicants appointed under this rule need not take the Professional Entry Test (P.E.T.) or other written exam to be appointed.

EXPLANATION

The Department of Civil Service has always had the goal of facilitating the hiring of the best qualified applicants, particularly in entry-level professional jobs which form the backbone of the classified service. (Note: For examining purposes "professional level jobs" in the classified service are defined as jobs with education factor ratings of five or higher in the job evaluation factor rating system.)

Currently, probational appointments to these jobs may only be made of applicants with certifiable scores on the P.E.T. (or in some cases a more specialized test) or applicants who are in the top five grade groups on a probational certificate.

The proposed rule is an additional alternative to facilitate hiring exceptional applicants that agencies may find by their own recruiting efforts. Such applicants would be exempt from testing for initial appointment. Appointment under this rule can be accomplished more quickly than the normal certificate process.

The GPA cut-off is set at 3.5 to ensure only the best applicants are appointed under this rule. Considering the wide range of differences in curriculums and colleges, we feel that restricting appointments under this rule to persons with GPAs of 3.5 or higher is the only way to ensure consistently high standards.

The purpose of the rule is to recruit highly talented new college graduates into trainee professional level positions. Therefore the rule is limited in scope to probational appointments to such entry-level positions and does not extend to higher level positions requiring experience beyond the baccalaureate degree.

Some examples to clarify application of the rule are given below:

Human Resource Analyst 1—The Human Resource Analyst 1 is a professional level job with a minimum qualification of a baccalaureate degree in any field or substitutions. Therefore a person with a baccalaureate degree in any field and a 3.5 or higher GPA could be probationally appointed under this rule.

Biologist-Field—This job requires a baccalaureate degree in biological sciences, marine sciences, environmental biology or wildlife management. Thus a person with a baccalaureate degree in one of these fields and a 3.5 or higher GPA could be probationally appointed under this rule. However, a person with a baccalaureate degree in some other field with a 3.5 GPA could not be appointed because their degree is not in a qualifying field. The controlling factor on type of degree is the minimum qualifications.

Human Resource Analyst 2—This job requires a baccalaureate degree in any field (or substitutions) plus one year of professional level personnel experience. Persons cannot be appointed to this job under the proposed rule because it is not entry-level. It requires a year of experience beyond the degree and is specifically excluded.

Accountant 2—This job has three options to qualify:

1. twelve semester hours in accounting plus two years of professional level experience in accounting or auditing;
2. eighteen semester hours in accounting plus one year of professional level experience in accounting or auditing;
3. a baccalaureate degree with 24 semester hours in accounting.

Only persons who qualify under option 3 and have a 3.5 or higher GPA may be appointed under this rule to Accountant 2 positions. The other options do not require degrees and do require additional experience. The purpose of the rule in this case is to recruit persons with majors in accounting. Therefore a person cannot be appointed under this rule if he or she qualifies under option 1 or 2 even if he or she has a degree (in some other field with less than 24 semester hours in accounting)

and a 3.5 GPA. Appointments to Accountant 2 under this rule may only be made of persons qualifying under option 3.

Special Note: Degrees accepted must be from a college or university accredited by one of the following regional accrediting bodies:

Middle State Association of Colleges and Secondary Schools;
New England Association of Schools and Colleges;
North Central Association of Colleges and Secondary Schools;
Northwest Association of Secondary and Higher Schools;
Southern Association of Colleges and Secondary Schools;
Western Association of Schools and Colleges.

Persons interested in making comments relative to this proposal may do so at the public hearing or by writing to Herbert L. Sumrall, Director of State Civil Service, Box 94111, Baton Rouge, LA 70804-9111.

Herbert L. Sumrall
Director

NOTICE OF INTENT

Department of Culture, Recreation and Tourism Office of State Parks

General Provisions; Fees (LAC 25:IX.Chapters 1-7)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Office of State Parks intends to amend its rules, regulations and fees relative to LAC 25:IX.Chapters 1-7.

Interested persons may submit written comments through January 15, 1993, to: Jim Ball, Assistant Secretary, Office of State Parks, Box 44426, Baton Rouge, LA 70804-4426.

Copies of the proposed rules may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA, (504)342-5015 or by contacting the Office of State Parks at the address listed in the above paragraph.

Jim Ball
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES Rule Title: Fee and Rule Changes

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

There is no estimated implementation cost to either state or local governmental units.

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

Additional yearly revenue of \$474,679 will be generated, \$254,179 will be deposited in La State Parks

Improvement and Repair Fund (Act 729 of 1989) and \$220,500 will be deposited to self-generated funds for operation of Bayou Segnette Wave Pool (Act 121 of 1992). Funds generated in FY 1992/93 (June) are estimated to be approximately \$90,000 as a result of the opening of the Bayou Segnette Wave Pool. These funds will be used for operating expenses related to the one month of pool operation. The following year 93/94 we expect revenue to increase (three months operation) to \$220,500 also to be used for wave pool operation. Revenue generated during FY 1992/93 (April, May, June) from other fees is anticipated to be approximately \$50,000. This amount will be deposited to the La State Parks Improvement and Repair Fund to be budgeted in 1993/94 for such purposes as identified in Act 729 of 1989. The additional funds anticipated to be generated in FY 1993/94 will be budgeted in 1994/95 for the same purposes. These are dedicated to be used solely for the purposes identified in the Act.

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

Visitors using State Parks' facilities will pay additional fees. Additional revenue will be generated to repair State Parks areas. Funds are budgeted in the Capital Outlay Budget. Funds will be collected to enter the new wave pool at Bayou Segnette State Park.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The increased revenues will provide an opportunity to repair and improve existing State Parks' facilities thus providing an opportunity for supplies and materials, which will be obtained through State Purchasing procedures. The funds generated for the operation of the Bayou Segnette Wave Pool will provide for the employment of three full-time employees and six to eight seasonal employees.

Jim Ball
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development Board of Cosmetology

Amendments Reflecting Legislative Changes (LAC 46:XXXI. Chapters 1-17)

Notice is hereby given that the Louisiana State Board of Cosmetology intends to revise its rules and regulations to reflect legislative changes, adopted board policies and updated changes in the industry under Title 46, Part XXXI.

Interested persons may express their views by writing to Joel C. Mumphrey, Chairman of the Board, Louisiana State Board of Cosmetology, 11622 Sunbelt Court, Baton Rouge, LA 70809 by January 29, 1993.

Copies of this proposed rule may be obtained in full text by contacting the Office of the State Register, 1051 North Third Street, Baton Rouge, LA, (504) 342-5015 (please refer to log 9212#077 when inquiring about this document) or by contacting the Board of Cosmetology at the address in the above paragraph.

Joel C. Mumphrey
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Cosmetologists

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

For FY 92-93, the initial cost for publishing the notice of intent and handbooks will be \$6,130, a computer programming contract of \$8,500 to implement the changes, and \$36,696 for two board member's per diem, and monthly expenses. For FY 93-94, 94-95, the increase of two board members will result in an increase in annual per diem and expenses of \$36,696 and handbook printing costs of \$3,000.

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

This rule change will increase revenues for FY 92-93, 93-94, 94-95 by approximately \$243,613. The \$5 increase in operator licenses will generate \$228,881 annually, the \$6 registration fee increase will generate \$11,732, and the \$25 administrative fee for students who fail to appear for their scheduled examination without proper notice will increase revenues by \$3,000.

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

These rule changes will provide a positive impact on the cosmetology industry by providing updated regulations affecting the testing, licensing, inspecting, investigation and monitoring for those involved in the industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be a positive effect to employment by providing more quality education for students, and as a result, more qualified operators will be licensed to provide cosmetological services to the general public.

Joel C. Mumphrey
Chairman

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741, Homeless Children and Youth

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted the following policy on homeless children and youth as an amendment to Bulletin 741, Louisiana Handbook for School Administrators:

Homeless Children and Youth

1.012.00 Each LEA will assure that each homeless child or youth residing within its jurisdiction has access to the same free, appropriate public education—on the same basis as children and youth with established residences. Refer to R.S. 17:222.1 and Public Law 101-645

1.012.01 Each school system shall continue the child's or youth's education in the school of origin for the remainder of the academic year or for the following academic year if the family becomes homeless between academic years; or enroll the child or youth in any school that non-homeless students who live in the attendance area in which the child or youth is actually living are eligible to attend; whichever is in the child's or youth's best interest.

1.012.02 Each school system shall keep and have immediately available any record ordinarily kept by the school, including immunization records, academic records, birth certificates, guardianship records, and evaluations for special services or programs of each homeless child or youth.

1.012.03 Each school system shall make placement choices regardless of whether the child or youth is living with the homeless parents or has been temporarily placed elsewhere by the parents.

1.012.04 Each school system shall provide services comparable to services offered to other students in the school selected, including transportation services, educational services for which the child or youth meets the eligibility criteria (Chapter 1, special education, limited English proficiency), programs in vocational education, programs for the gifted and talented and school meals programs.

1.012.05 Each school system shall designate a central office official who will serve as a homeless advocate to coordinate services and ensure that there are no barriers to the enrollment, transportation, attendance, and success in school for homeless children and youth. Additionally, the homeless advocate will promptly solve disputes regarding educational placement.

1.012.06 Each school system shall ensure the prompt resolution (within five school days) of disputes regarding the educational placement of homeless children and youth following the procedures in the Louisiana EHCY Plan.

1.012.07 Each school system that receives a homeless direct grant award from the SEA Office of Education for Homeless Children and Youth (EHCY) must coordinate the services provided and designate a homelessness liaison to carry out certain mandates.

1.012.08 Each school system shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth. Further, LEAS must adopt policies and practices to ensure that homeless children and youth are not isolated or stigmatized.

1.012.09 Each school system shall submit EHCY Assurance Form #9-91 to the EHCY office in the Department of Education and keep a copy of this form on file for compliance monitoring. Homeless Children and Youth

2.012.00 Each school will assure that each homeless child or youth residing within its jurisdiction has access to the same free, appropriate public education—on the same basis as children and youth with established residences. Refer to R.S. 17:222.1 and Public Law 101-645

2.012.01 Each school shall continue the child's or youth's education in the school of origin for the remainder of the academic year or for the following academic year if the family becomes homeless between academic years; or enroll the child or youth in any school that non-homeless students who live in the attendance area in which the child or youth is actually living are eligible to attend; whichever is in the child's or youth's best interest.

2.012.02 Each school shall keep and have immediately available any record ordinarily kept by the school, including immunization records, academic records, birth certificates, guardianship records, and evaluations for special services or programs of each homeless child or youth.

2.012.03 Each school shall make placement choices regardless of whether the child or youth is living with the homeless parents or has been temporarily placed elsewhere by the parents.

2.012.04 Each school shall provide services comparable to services offered to other students in the school selected, including transportation services, educational services for which the child or youth meets the eligibility criteria (Chapter 1, special education, limited English proficiency), programs in vocational education, programs for the gifted and talented and school meals programs.

2.012.06 Each school shall ensure the prompt resolution (within five school days) of disputes regarding the educational placement of homeless children and youth following the procedures in the Louisiana State Plan for Educating Homeless Children and Youth.

2.012.08 Each school shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth. Further, LEAS must adopt policies and practices to ensure that homeless children and youth are not isolated or stigmatized.

AUTHORITY NOTE: P. L. 101-645 and R. S. 17:222.1

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education LR 19:

Interested persons may comment on the proposed rule until 4:30 p.m., February 7, 1993 at the following address: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Rule Title: Bulletin 741, Homeless Children

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

With the adoption of the proposed 741 policies, there may be some local costs. The amount of cost can not be estimated due to insufficient data on homeless children.

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

With the adoption of the proposed 741 policies, approximately \$600,000 will be available for the 1993-94 school year. The funding source is from the U.S. Department of Education. Public Law 101-645, known as the Stewart B. McKinney Act, provides funding based on Chapter 1 statistics. The funding level awarded to Louisiana is expected to increase in the years to come.

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

The proposed policies will have a positive affect upon homeless children by protecting their right to receive a free and appropriate public education. The proposed policies will ensure that schools and school systems will remove and/or revise any school policy that would serve as a barrier or prohibit a homeless child or youth from attending school.

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

There is no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent,
Management and Finance

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1868, BESE Personnel Manual

In accordance with the R.S. 49:50 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted an amendment to Bulletin 1868, BESE Personnel Manual. This amendment was adopted as an emergency rule, effective October 22, 1992, and printed in full in the November, 1992, issue of the *Louisiana Register*.

Bulletin 1868, BESE Personnel Manual

Chapter G: Employee Grievances

181. Grievance Procedure.

E. Processing the Grievance

3. Second Step

(This amendment was printed in full in the November, 1992, issue of the *Louisiana Register*, pages 1205-1206.)

Interested persons may comment on the proposed rule until 4:30 p.m., February 7, 1993, at the following address: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

AUTHORITY NOTE: R.S. 17:4, 6(10), 7(5), R.S. 17:100.4; 17:1951, LRS 17:1993, 1995.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education LR 19:

Carole Wallin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Rule Title: Bulletin 1868, BESE Personnel Manual

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

The estimated implementation costs is approximately \$150 in additional costs for printing and distribution/ mailing of changes.

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

No effect on revenue collections is anticipated as a result of these changes.

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

No costs/benefits are anticipated.

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

No effects are anticipated.

John Guilbeau
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Louisiana Honors Scholarship

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, announces its intention to adopt rules to amend the Louisiana Honors Scholarship Program.

VII. LOUISIANA HONORS SCHOLARSHIP PROGRAM

A. Program Description, History and Purpose. The Louisiana Honors Scholarship Program, first awarded in the fall of 1992, provides tuition exemption to Louisiana residents to acknowledge, honor and reward the academic achievement of Louisiana's top high school graduates, to ensure that these students have the financial resources to pursue a higher education in one of Louisiana's colleges and universities and to provide an incentive to these students to seek their higher education in this state.

B. Legislative Authority. Chapter 20-B-3 of Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:3042.31 - 3042.35, Enacted by Act 1085 and Amended by Act 13 of the 1992 Regular Legislative Session.

C. Student Participation/Responsibilities

1. Initial Eligibility — to establish initial eligibility, the student must meet all of the following criteria:

a. graduate in the top five percent of the academic year's graduating class from a Louisiana public or state (BESE) approved nonpublic high school, as identified and certified by the city and parish school board for public high schools and by the principal or headmaster of each nonpublic approved high school; or be enrolled in a state-approved home study program and score in the upper five percent in the state on the National Merit Examination;

b. be a Louisiana resident, as defined in Section VIII.A. of this manual;

c. enroll as a first time* full-time undergraduate student in a public or regionally accredited LAICU member independent college or university in the state, within two years of high school graduation*;

d. not be receiving other gratuitous financial assistance or support from the college or university attended or from any alumni organization or foundation organized by the alumni or other supportive individual of the college or university attended whose charter specifically provides that the purpose of the foundation is to aid said college or university in a philanthropic manner if the total cost of the student's tuition is provided by the scholarship;

e. is not receiving other awards, which together with award of the Honors Scholarship would exceed the student's total cost of attendance as defined by the institution in accordance with federal regulations;

f. not be receiving another form of tuition waiver.

2. Award Notification/Acceptance

a. Respond in writing, as requested, by the deadlines specified.

b. Receive the award certificate and the tuition exemption form at the high school ceremony or reception.

c. Present the tuition exemption form to the college at the time of registration.

3. Renewal Eligibility - Continuing eligibility is contingent upon the recipient meeting the following requirements:

a. Continue to attend a Louisiana public or independent college or university as a full-time undergraduate student for not less than two semesters or three quarters in each academic year unless granted an exception for cause by OSFA.

b. Maintain by the end of each academic year a cumulative college grade point average of at least a 3.0 on a 4.0 scale. Failure to maintain academic eligibility will result in permanent cancellation of the recipient's entitlement.

c. Continue to register, maintain and successfully complete not less than 12 hours per semester, eight hours per quarter or six hours per summer session for each term during which a waiver was granted.

d. Have previously received tuition waivers for less than 10 semesters (or 15 quarters), including summer sessions and less than seven years have elapsed since the month following the date of high school graduation.

e. Eligible students at their option may have tuition waived for attendance during a summer session; however, if tuition is waived for a summer session it shall be counted as a full semester or quarter towards the tuition waiver limitation of 10 semesters or 15 quarters. Students may elect to enroll part or full time during a summer session and not accept the tuition waiver for that term, in which case the summer session would not be counted as a semester or quarter against the tuition waiver limitation.

f. Be in compliance with the terms of other aid programs.

g. Is not receiving other awards, which together with award of the Honors Scholarship, would exceed the student's total cost of attendance as defined by the institution in accordance with federal regulations.

h. Is not receiving a tuition waiver from another source.

D. High School, School Board and Louisiana Department of Education Participation/Responsibilities

1. School Board, Nonpublic High School Headmasters and Louisiana Department of Education Representatives

a. Each city and parish school board and BESE approved nonpublic high school principal or headmaster shall apply the following guidelines in complying with R.S. 17:3042.33A:

i. consider only the academic grades recorded on the student's official high school transcript in determining class ranking;

ii. within the definition provided in Subsection H.1, the academic courses which are to be considered in determining academic class ranking shall be defined as part of the written criteria to be adopted by the board or headmaster.

iii. non-academic courses or other subjective criteria shall not be used in computing academic class ranking for the purposes of this Chapter.

iv. define the procedure by which students who would otherwise have equal academic class ranking may be ranked (tie-breaker procedure). This may include an evaluation of the students' academic grades on a set of pre-determined core academic courses such as English, math and science or an evaluation of the level of difficulty of the courses taken by the students, such as honors courses and higher level math or science courses.

v. by an affirmative act taken during a public meeting, approve written criteria for determining the academic class

*A one time exception is granted for 1992/93 awardees who were not notified of their eligibility until after Fall 1992 enrollment. 1992/93 awardees who enrolled at either in or out-of-state institutions ineligible to participate in the program and subsequently enroll for the Fall 1993 term at an eligible institution will be granted the tuition waiver for the Fall 1993 term as long as they are in compliance with all other eligibility criteria.

ranking of students and the procedure by which the top five percent shall be identified. Such written criteria shall incorporate each of the requirements defined in this Paragraph.

b. In computing the top five percent of each high school's graduating class, apply the following formula: The total number of students who are Louisiana residents receiving a state high school diploma from the institution during the academic year (includes summer and mid-year graduates) multiplied by the figure .05, and, if not a whole number, rounded up to the next whole number. (See the example in Subsection H.9.)

c. Ensure that the approved selection criteria is publicly posted in each high school under the board or headmaster's jurisdiction and provide a copy of the criteria to OSFA.

d. Ensure that amendments to the criteria, as approved by the board/headmaster from time to time, shall only be effective for the years following the year in which amended.

e. Each year, by the deadline specified and on the forms provided by OSFA, city and parish school boards for public high schools, principals or headmasters of nonpublic BESE approved high schools, and Louisiana Department of Education representatives for home study students, certify and submit to OSFA the names of students graduating in the top five of each high school's academic year graduating class or the names of those students completing an approved home study program who scored in the upper five percent in the state on the National Merit Exam.

2. Public and Nonpublic High Schools and Louisiana Department of Education Representatives

a. Receive the notification of selected students and the award certificates produced by OSFA.

b. Recognize recipients at an award ceremony or school reception provided by R.S. 17:177.

c. Invite members of the legislature representing the school's district to attend the ceremony or reception, endorse the certificates and make the presentation awarding such.

E. College/University Participation/Responsibilities

Colleges and universities eligible to participate in the Louisiana Honors Scholarship Program are Louisiana public and independent (regionally accredited member institutions of LAICU) colleges and universities. Participating institutions shall:

1. Receive OSFA notification of student's eligibility determination.

2. Respond to OSFA communications as requested, including but not limited to, the following:

a. Certify full-time enrollment status each semester or quarter.

b. Supply certification of continuing eligibility, including the following, to be supplied at the completion of each academic year (ending after each spring semester/quarter):

i. total number of hours earned during the specific academic year (including summer sessions);

ii. cumulative hours earned (including prior academic years and summer sessions);

iii. cumulative GPA, including all grade credits earned to date;

iv. actual date of graduation.

c. Notify OSFA immediately if applicant fails to enroll or withdraws from school or drops to less than full-time attendance.

d. Notify OSFA of any irregularities discovered by the institution which may affect student eligibility status.

e. Maintain adequate records to verify compliance with LASFAC rules.

3. Follow LASFAC billing procedures, as follows:

a. Institutions may bill LASFAC only for students certified eligible by OSFA.

b. Institutions will bill LASFAC based on their certification of new students' first time, full-time enrollment and renewal students' full-time enrollment as of the fourteenth class day (ninth class day for Louisiana Tech). Institutions are not to bill for students who are enrolled less than full-time on the fourteenth class day, nor for renewal students who did not maintain full-time attendance, as defined in this section, for the immediately preceding term for which they were enrolled. Students failing to meet the full-time enrollment criteria are responsible for reimbursing the institutions for any monies owed. Refunds for less than full-time enrollment after the fourteenth class day are to be retained by the institution.

c. Institutions will not bill LASFAC for any awardee who has elected to accept another form of tuition waiver.

d. If the total cost of the student's tuition is provided by the Honors Scholarship, the student shall not be receiving nor shall an institution award any other gratuitous financial assistance or support from the college or university attended or from any alumni organization or from a foundation organized by the alumni or other supportive individuals of the college or university attended whose charter specifically provides that the purpose of the foundation is to aid said college or university in a philanthropic manner. Gratuitous financial assistance does not preclude the award of publicly funded scholarships which are awarded based on objective academic or need based criteria. Gratuitous financial assistance does not preclude the receipt of either objectively or subjectively awarded, private scholarships from a business or organization which is not associated with the college or university in a philanthropic manner.

e. Annually, institutions must provide OSFA a current fee schedule for Louisiana Honors Scholarship Program billing purposes. The schedule must indicate the total cost of tuition, which shall not include any fees charged by the college or university that are in addition to the basic course enrollment charges. Independent institutions must bill LASFAC for the amount equal to the highest tuition charged at a Louisiana public college or university or the actual tuition of the independent institution, whichever is less. An itemized description of the composition of the mandatory fees listed on the fee schedule must also be supplied.

f. Upon the school's certification, OSFA will reimburse the institution for each scholarship recipient up to the maximum amount listed on the approved fee schedule.

F. Louisiana State Legislators Participation/Responsibilities

1. Receive OSFA's notification that constituents have been selected for award of the Honors Scholarship.

2. Receive invitations from high schools in their respective

districts and attend ceremonies for the purpose of endorsing the Louisiana Honors Scholarship award certificate and presenting the certificate to the recipient.

G. OSFA Participation/Responsibilities

1. Budget Forecasting

a. Determine the amount of funding required for continuation of the program by estimating the total new and continuing tuition exemptions expected to be awarded.

b. Submit recommended budget.

c. Receive notification of appropriation upon enactment.

2. Certification Processing

a. Forward blank certification forms and instructions to Louisiana public and approved private nonpublic high schools and the Louisiana Department of Education.

b. Receive, review and approve the completed high school certification listings of selectees.

3. Renewal Eligibility/Ineligibility Determination

a. Annually, at the close of each academic year, determine the recipient's current status and continuing eligibility.

b. Notify recipients of their status and any actions needed.

4. Award Determination

a. Forward award notification to new and renewal recipients.

b. Generate award listings and forward to high schools, college and university financial aid offices and to legislators.

c. Maintain correspondence with colleges and universities to confirm initial and continuing eligibility of students for the Louisiana Honors Scholarship.

5. Reimburse the tuition waived by colleges and universities:

a. Review and approve for reimbursement the school's current schedule of fees.

b. Mail Honors Scholarship billing packets to schools.

c. Verify and reconcile the school's Honors Scholarship

Billing Invoice.

d. Resolve and correct discrepancies, if applicable.

e. Mail payment acknowledgement and check to school.

H. Definitions Applicable to this Chapter

1. Academic Courses. For the purposes of this Chapter, academic courses are defined as only those courses earned in the curriculum specified as the BESE Honors Curriculum. The required electives shall only be considered as academic courses if they are selected from courses listed in the Honors Curriculum which were not taken as part of the required curriculum.

2. Academic Year. For purposes of the Louisiana Honors Scholarship Program, the annual academic year for both college and high school begins with the summer session, includes the fall and winter terms and ends at the conclusion of the spring term, in that order. For example, for a high school graduate to be considered for award of the scholarship to attend college in the 1992 fall term, he/she must have graduated from high school during the summer term 1991 (usually June or July), mid-term 1991 (usually December), or the spring term 1992 (usually May or June). This definition is not to be confused with the Louisiana Department of Education's definition of school year, which is found in Bulletin 741.

3. Basic Course Enrollment Charges. Those institutional tuition and mandatory fees charged all full-time students for purposes of enrollment.

4. BESE Approved Nonpublic High School. As defined in the *Louisiana School Directory* (Bulletin 1462), an approved nonpublic school meets standards specified in *The Louisiana Handbook for School Administrators*, (Bulletin 741). For the purposes of this Chapter, approved nonpublic schools may include private or Diocesan high schools classified annually by the Department of Education as approved, provisionally approved or probationally approved, if their students fulfill BESE graduation requirements.

5. Graduate. For the purposes of this Chapter, a high school graduate is defined as a student certified (by award of the state high school diploma) to have satisfactorily completed the required units of high school work assigned from the state high school course of study prescribed by the Louisiana State Board of Elementary and Secondary Education (BESE).

6. Graduating Class. For the purposes of this Chapter, the high school graduating class is defined as the number of Louisiana residents (as defined by LASFAC) who are graduating from a public or approved nonpublic high school during the academic year preceding the award year. Foreign exchange students and other non-residents shall not be counted as a member of the graduating class.

7. Gratuitous. Gratuitous financial assistance or support from the college or university, alumni organization, foundations organized by alumni or other supportive individuals of the college or university, is hereby defined as something given which is unearned or without recompense which does not involve any return benefit, compensation or consideration. The term "unearned" is hereby defined to include awards based on subjective rather than objective criteria for selection. Gratuitous financial assistance does not preclude the award of publicly funded scholarships which are awarded based on objective academic or need based criteria.

8. LAICU Member Institution. A private college or university which is a member of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU). As of June 1992, LAICU membership included, Centenary College, Dillard University, Louisiana College, Loyola University, Our Lady of Holy Cross College, Tulane University, and Xavier University.

9. Top Five Percent Determination

a. The top five percent of the graduating class of each public and nonpublic BESE approved high school as determined by the city and parish school boards and nonpublic approved high school principals or headmasters for each high school under their jurisdiction in accordance with the written ranking criteria approved by the board or headmaster. In calculating the number of award winners, any fraction shall be rounded up to the next whole number.

b. In computing the top five percent of each high school's graduating class, the following formula shall apply: The total number of students who are Louisiana residents receiving a state high school diploma from the institution during the academic year (includes summer and mid-year graduates) multiplied by the figure .05, and rounded up to the next whole number.

Example: For a high school that awarded state high school diplomas to two summer graduates, seven mid-year graduates and 79 spring graduates during the academic year considered, the following computation would apply:

$$2 + 7 + 79 = 88 \times .05 = 4.4 \text{ round up to } 5.0$$

Accordingly, five students may be selected for the Honors Scholarship at the high school depicted in the example.

A public hearing on the proposed amendments to the Louisiana Honors Scholarship Program rules will be held on Monday, January 25, 1993, at 9:30 a.m., at Four United Plaza, 8555 United Plaza Boulevard, Baton Rouge, LA, in the first floor public meeting room.

Interested persons may submit written comments on the regulations until 4:30 p.m., February 20, 1993, at the following address: 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: Louisiana Honors Scholarship Program

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

In reducing the number of eligible students by requiring that only first time undergraduates be eligible within two years of the date of their high school graduation, there will be a reduction in cost. By permitting mandatory enrollment fees to be included in the definition of tuition, the cost per award will increase. The net effect of these two changes is projected to balance.

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

These amendments will have no effect on revenue collections of state or local governmental units.

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

The amendments will improve and clarify administration of the Louisiana Honors Scholarship Program. Students who fail to enroll for the first time at a Louisiana public or private college within two years of the date of their high school graduation would become ineligible to claim the award at a later date. Students that remain eligible and receive the scholarship will obtain the additional benefit of having mandatory enrollment charges included in their tuition waiver.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated from implementation of this program.

Jack L. Guinn
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Environmental Quality Air Quality and Radiation Protection

(Editor's Note: The first paragraph of the notice of intent for Log AQ66—Permit Procedures—Emissions from Nonattainment Areas—which appeared on page 1285 of the November 20, 1992, edition of the Louisiana Register, erroneously cited LAC 33:III.502, 505 and 509 as the sections being amended. The correct citation is LAC 33:III.504.)

NOTICE OF INTENT

Department of Environmental Quality Air Quality and Radiation Protection

Waste Gas Disposal (LAC 33:III.2115.H)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2054 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 Office of Air Quality and Radiation Protection Regulations, LAC 33:III.2115.H, Log AQ68.

This proposed rule seeks to exempt certain waste gas streams that are small, contain less than 408 ppm by volume of volatile organic compounds and are not part of the emissions of certain facilities. These emissions shall not be greater than or equal to 50 TPY for facilities located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee and West Baton Rouge. These emissions shall not be greater than or equal to 100 TPY for facilities located in any other parish.

These proposed regulations are to become effective on March 20, 1993, or upon publication in the Louisiana Register.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2115. Waste Gas Disposal

Any waste gas disposal stream containing volatile organic compounds (VOC) from any emission source including those emissions from process unit upsets, start-ups and shutdowns shall be controlled by one of the following methods:

* * *

H. Exemptions

1. All waste gas disposal streams containing VOC, except those subject to Subsections C, D and E of this Section, are exempt from the requirements of this Section if any of the following conditions are met:

a. it can be demonstrated that the waste gas stream is not a part of a facility with total VOC emissions greater than or equal to 50 TPY in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee and West Baton Rouge, or 100 TPY in any other parish; or

b. it is a vent gas stream from a low-density

polyethylene plant and no more than 1.1 pounds of ethylene per 1,000 pounds (1.1 kg/1000 kg) of product are emitted from all the vent gas streams associated with the formation, handling and storage of solidified product; or

c. it is a vent gas stream having a combined weight of VOC equal to or less than 100 pounds (45.4 kg) in any continuous 24-hour period; or

d. it is a vent gas stream with a concentration of VOC less than 0.44 psia true partial pressure (30,000 ppm) except for the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, St. James and West Baton Rouge in which the concentration of VOC in the vent gas stream must be less than 0.044 psia true partial pressure (3,000 ppm).

2. Except for waste gas disposal streams subject to Subsections C, D and E of this Section, the administrative authority* may waive the requirements of this Section if one of the following conditions is met:

a. it will not support combustion without economically impractical amounts of auxiliary fuel; or

b. its disposal cannot be practically or safely accomplished by the means described herein or other equivalent means without causing undue economic hardship.

3. Waste gas disposal streams subject to Subsections C, D and E of this Section are exempt from the requirements of this Section if it can be demonstrated that the waste gas disposal stream has a concentration of VOC no greater than 408 ppm by volume.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 19:

A public hearing will be held on January 28, 1993, at 1:30 p.m. in the Department of Environmental Quality Headquarters Building, Fourth Floor Conference Room, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Friday, January 29, 1993, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810. Commentors should reference this proposed regulation by the Log AQ68.

James B. Thompson, III
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
Rule Title: Waste Gas Disposal**

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

There will be no cost or savings accruing to state or local governmental units.

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

The proposed rule amendment will not have any effect on revenue collections.

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

Economic benefits accruing to directly affected persons or non-governmental groups will include monetary savings resulting from not having to install control systems on proposed exempted waste streams.

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

There will not be any effect on competition and employment.

William A. Kucharski
Deputy Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of State Uniform Payroll**

Payroll Deduction (LAC 4:III.Chapter 1)

In accordance with R.S. 49:950 et seq., the Office of the Governor, Division of Administration, Office of State Uniform Payroll, hereby gives notice of its intent to amend the regulations governing payroll deductions. The purpose of the amendment is to establish requirements which will provide information necessary for the administration of the Section 125 (Cafeteria) Plan. This information is necessary for accurate calculation and timely reporting of employee wages and tax information, to replace the deduction authorization form (SED-4), modify forms SED-1 and SED-3, and add definitions and wording in the rule specific to those changes.

The full text of these amendments was published on pages 1207-1212 of the November 20, 1992, issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed regulations to Frances Toney, Division of Administration, Office of State Uniform Payroll, Box 94095, Baton Rouge, LA 70804-9095.

Whit J. Kling, Jr.
Assistant Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Rule Title: Payroll Deduction

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

The cost to the state for implementation of this rule is not anticipated to be appreciably more than the costs which are incurred in the administration of the present rule.

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

No direct generation of revenue will occur. There should be a reduction in time loss of employees and administrators due to reduction of problems in the area of cafeteria plan administration. Additional information made available to agency payroll personnel will provide better documentation and control over payroll deduction components and provide data necessary for effective management of the cafeteria plan.

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

There are no anticipated cost or economic benefits that can be quantified at this time.

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

Identification of cafeteria plan participation and/or non-participation of each component of payroll withholding will provide employee's greater flexibility in selection or deletion of benefits.

Whit J. Kling, Jr.
Assistant Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Office of Elderly Affairs**

Adult Protective Services (LAC 4:VII.1239)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to adopt the following rule, effective March 20, 1993.

A public hearing on this proposed rule will be held on Tuesday, January 26, 1993, in the GOEA Conference Room, 4550 North Boulevard, Second Floor, Baton Rouge, LA 70805, at 1:30 p.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

The full text of this proposed rule was published in the Emergency Rule Section of the November, 1992, issue of the *Louisiana Register*.

Interested persons may submit written comments to the following address: Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374. Betty Johnson is the person responsible for responding to inquiries concerning this proposed rule. Comments will be accepted until 5 p.m. January 26, 1993.

James R. Fontenot
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Rule Title: Adult Protective Services

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

The state legislature appropriated \$1,768,339 for Adult Protective Services for Fiscal Year 1992 - 1993 during the 1992 Regular Session. A 4% personnel increase and a 3.4% increase for other costs have been requested for fiscal year 1993-94.

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

The proposed rule will not affect revenue collections of state or local governmental units.

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

Contract providers will be awarded a total maximum amount of \$959,609 to perform adult protective services functions in up to seven regions. Each will have to carry program responsibilities as outlined in the proposed rule; however, cost of additional work, etc. will be covered in contract amount. They will not be required to incur any additional out-of-pocket costs.

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

Contractors will each hire 4 - 8 staff persons. The Office of Elderly Affairs will employ 23 new staff persons.

James R. Fontenot
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

Licensure Procedures to Practice Veterinary Medicine
(LAC 46:LXXV.Chapter 3)

In accordance with the provisions of R.S. 49:950 et seq., and 37:1518 and 37:1523 et seq., the Louisiana Board of

Veterinary Medicine proposes to amend and adopt the following sections of Chapter 3.

This rule change is intended to clarify existing rules concerning the requirements of application and examination for licensure to practice veterinary medicine in Louisiana. The adoption of §302 is designed to create a rule to which reflects policy and procedures of the board office and to clarify the responsibilities of its licensees in the annual renewal process §303 includes amendments to change and clarify the scoring methods used on state and national examinations. In the case of the national examinations, this change is required by contract. A change in the flexibility of scheduling the state examination dates is also being proposed.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 3. Licensure Procedures

§301. Applications for License

A - B.1....

2. a copy of the applicant's diploma from an accredited veterinary medical school;

3. a certificate by the applicant that the applicant has not been convicted, pled guilty, or pled nolo contendere to either a felony or misdemeanor other than minor traffic violations, and, in the event that the applicant is unable to so certify, the board may require the applicant to explain in full and/or provide further documentation;

B.4-B.5...

6. The certified score on any previous national examinations or state examinations (whether Louisiana state examinations or state examinations from other states) previously taken by the applicant;

B.7-E...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 and 37:1520.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:66 (February 1982), amended LR 10:464 (June 1984), LR 16:224 (March 1990), LR 19:

§302. Renewals

A. Pursuant to R.S. 37:1524 and 37:1525, all licenses must be renewed annually. Failure to renew a license shall be considered a violation of the rules of professional conduct. Licenses which are not renewed within 60 days of the deadline for renewal will be suspended or revoked by majority vote of the board at the next available board meeting.

B. Persons failing to renew their license by more than 60 days after the annual deadline will receive one notification via certified mail prior to a suspension of the license. Such notice will advise of actions to be taken by the board in conjunction with the failure to renew. These actions may include the imposition of a late fee and/or a fine for reinstatement of the license. The board may also elect to publish, in its own newsletter and/or publications of the LVMA, and distribute to other parties, the names of such persons holding suspended or revoked licenses. The distribution of this list may include, but is not limited to, the Office of State Narcotics, the Federal Drug Enforcement Agency and Food and Drug Administration, drug supply wholesalers, veterinary supply wholesalers, and the LVMA.

C. It is the duty of the licensee to maintain a current address with the office of the Louisiana Board of Veterinary Medicine and to notify the board's office if an annual reregistration form is not received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

§303. Examinations

A.1. The Louisiana Board of Veterinary Medicine hereby adopts the examinations prepared or adopted by the National Board of Veterinary Medical Examiners (NBVME). Said examinations are hereafter referred to as the "national examination(s)." The board requires that all applicants for licensure to practice veterinary medicine in the state of Louisiana shall pass the national examinations in addition to any and all state examinations (herein defined as such written examination, oral interviews and/or practical demonstrations as the board may request or require).

2. Any applicant for licensure to practice veterinary medicine in the state of Louisiana who has been a licensed veterinarian in a full-time, private practice in another state, district, or territory of the United States for the five years immediately preceding his application, shall not be required to take or provide scores from the national examinations but shall be required to meet all other criteria for licensure.

3. Persons who have taken the national examinations and who have not been engaged in the full-time, private practice of veterinary medicine within the five years immediately preceding their application will be required to provide official copies of those scores to the board. Said scores must meet or exceed the passing point set for Louisiana for the corresponding examination date.

B. A passing score on the national examinations shall be determined by the NBVME or its agent, designee or firm charged with the formulation, administration and grading of the national examinations. The formulation, administration and grading by the agent of the NBVME shall be conclusive.

C. The administration of the national examination(s) shall be in accordance with rules, practices, policies, or procedures prescribed by the National Board of Veterinary Medical Examiners, or by the designees of the NBVME or by any person or persons with whom the National Board of Veterinary Medical Examiners may have contracted to administer said examinations.

D. In addition to the requirements of §303 A, B and C, an applicant must achieve passing scores on the state board examination as follows:

1. must obtain a passing score of at least 70 percent for the Rules of Professional Conduct section of the state examination; and

2. must obtain an average passing score of at least 70 percent for the remaining three sections of the state examination consisting of equine (25 percent of the exam,) food animal (25 percent of the exam,) and companion animal (50 percent of the exam.)

E. The state examination may be prepared, administered and graded by the members of the Louisiana Board of Veterinary Medicine or may be prepared, administered and/or graded, in

whole or in part, by any person, firm, corporation or other entity selected, requested or designated to do so by the Louisiana Board of Veterinary Medicine.

F. The state examination shall be administered at least once annually in the spring of each year. Additional administration of the state examination may be given as deemed necessary or desirable by the Louisiana Board of Veterinary Medicine. Notice of the dates of the state examination shall be published at least 90 days in advance in the *Louisiana Register*. The national examinations shall be administered at such dates, times and places as shall be required by the National Board of Veterinary Medical Examiners, or their agents, employees, or designees.

G. If an applicant passes two sections of the state examination—excluding the Rules of Professional Conduct—then the applicant will be said to have a "conditioned" score and may retake the failed section of the state examination on the next available date as announced by the board. If the applicant subsequently passes that section of the state examination such that the average score on all three sections reaches 70 percent, the applicant shall be deemed to have passed the state examination. If the applicant's average score is less than 70 percent upon retaking the "conditioned" section of the examination, he shall be required to retake all three sections of the examination. Conditioned scores are only valid through the next available state examination date.

H. If the applicant fails two parts of the state examination—excluding the Rules of Professional Conduct—he must retake and pass all three parts of the state examination according to the criteria in §303 D.2 above.

I. If the applicant fails the Rules of Professional Conduct section of the state examination, he must retake this section and pass according to the criteria in §303 D.1 above.

J. A passing score on any examination shall be given effect for a period of two years. Should an applicant pass one or more of the required state or national examinations but fail to pass one or more of the other required examinations for a period of two years, such applicant will thereafter be required to retake and pass all examinations, notwithstanding such applicant's previous passing of one of the required examinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:144 (March 1982), amended LR 19:

§305. Licenses Without Examination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:66 (February 1982), repealed LR 19:

Interested parties may submit written comments until December 30, 1992, to the office of the Louisiana Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203, Attention: Vikki Riggle, Executive Director.

A public hearing will be scheduled for 10 a.m. on Wednesday, January 27, 1993.

Vikki Riggle
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Licensure Procedures to Practice Veterinary Medicine

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

No implementation costs are anticipated by the amendments or adoption proposed.

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

No additional costs will be incurred by the proposed changes to Chapter 3, §301, §303, or §305. The adoption of §302 may result in a minor savings of staff time and postage costs. A recovery of costs by imposition of late fees and/or fines for untimely renewals may be realized by the board.

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

The assessment of late fees and/or fines for failure to make timely application for license renewal will result in additional costs to licensees who do not observe the renewal period deadlines as required.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated as a result of the amendment or promulgation of these rules.

This rule change should have no effect whatsoever on competition or employment.

Vikki Riggle
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Board of Veterinary Medicine

Public Hearings and Meetings (LAC 46:LXXXV.Chapter 1)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq., notice is hereby given that the Louisiana Board of Veterinary Medicine intends to amend Chapter 1, §103 and §105 and adopt §106 and §108 as follows:

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXXV. Veterinarians

Chapter 1. Board of Veterinary Medicine

§103. Meetings

A. The annual meeting of the Louisiana Board of Veterinary Medicine shall be in May of each year, at a time and place to be announced by posting public notice of the time and place of said meeting 24 hours in advance of such meeting at the permanent office of the Louisiana Board of Veterinary Medicine in Baton Rouge, Louisiana.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:65 (February 1982), amended LR 16: 222 (March 1990), LR 19:

§105. Appeals and Review

A. Any applicant desiring to review his or her (hereinafter in this title, the masculine pronouns "he," "him," and "his" shall be deemed to include the feminine pronouns "she," "her," and "hers") national examination and/or the master answer sheet and/or the examination questions shall make arrangements with the Professional Examination Service and/or any person, firm, corporation or entity charged with the preparation, grading and/or administration of the national examination by the Professional Examination Service for such review. The Louisiana Board of Veterinary Medicine shall not conduct reviews of the questions contained on the national examination, the answers to the questions contained on the national examination, or any applicant's score on the national examination.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:65 (February 1982), amended LR 19:

§106. Public Hearings

A. The board may call a disciplinary public hearing for the purpose of determining whether a licensee has violated any portion of the Veterinary Practice Act (R.S. 37:1511 et seq.) pursuant to such hearing, may be delivered by certified, return-receipt-requested mailing or by hand-delivery.

B. A licensee may waive his right to a public hearing and accept a letter of reprimand which may or may not include disciplinary measures and fines to be imposed by the board. The board will offer, via certified return-receipt-requested mailing, this option to a licensee against whom it has been determined that a valid complaint has been received and where, in the opinion of the board, a public hearing is not necessary to effectively and judiciously render a disciplinary action.

C. A licensee may appear before the board or the board's designated representative(s) at a regular or special meeting to discuss the charges and accept or decline disciplinary measures and fines to be imposed by the board. The board will offer, via certified return-receipt-requested mailing, this option to a

licensee against whom it has been determined that a valid complaint has been received and where, in the opinion of the board, a public hearing is not necessary to effectively and judiciously render a disciplinary action but where the board wishes to question the veterinarian and/or the complainant to receive testimony and other evidence prior to rendering a decision.

D. Except in situations in which the veterinarian has waived his right to a public hearing and/or to an appeal, the licensee has the right to appeal the decision of the board in accordance with §105.C above, whether such decision is rendered by judgment via a public hearing, by decision at an informal hearing, or via a letter of reprimand. In any of the aforementioned cases, the 30-day period for making an appeal will begin on the date recorded on the return-receipt card for the certified mailing of the judgment, decision from an informal hearing, or letter of reprimand. In the case of refusal to accept a certified letter, the 30-day appeal period will begin on the date of the mailing of that document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

§108. Terms of Board Members

A. Terms of the members of the board shall be of five years duration beginning on August 1 of the year appointed by the governor and ending on July 30 of the fifth year. When a member is not appointed or seated by August 1, the term itself will begin on August 1 although the member may not be seated until the date of the governor's commission order. The outgoing member must remain seated on the board until such time as the governor's commission order is signed.

B. One board member will be appointed each year. The board office will notify the LVMA in writing in December of each year of the need to advertise for nominations to be made at the next regular full membership meeting of the LVMA in accordance with R.S. 37:1515.

C. In the event that a member of the board cannot fulfill the appointed term, the LVMA will be notified by the board office that an emergency appointment is needed. Nominations will be made by the LVMA as per R.S. 37:1515. Upon the selection and signing of the appointment commission by the governor, the member so appointed will serve until the July 30 date of the unexpired term. A person so appointed may be nominated for a full five-year appointment to follow the expiration of the emergency appointment.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:1518 and 37:1515.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

Interested parties may submit written comments to Vikki Riggie, Executive Director at the office of the Louisiana Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203. Comments will be accepted through the close of business on December 30, 1992.

A public hearing on these proposed changes will be held on January 27, 1993, at the office of the Louisiana Board of Veterinary Medicine at 10 a.m. All interested persons will be

afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Vikki L. Riggle
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Public Hearings and Meetings

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No costs are associated with implementation.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No change in revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No non-governmental groups are affected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
These rule changes should have no effect whatsoever on competition or employment.

Vikki Riggle
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Office of Alcohol and Drug Abuse

Group Homes for Recovering Substance Abusers (LAC 48:VII. Chapter 7)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Office of Alcohol and Drug Abuse is hereby giving notice of its intent to amend LAC 48:VII., Chapter 7 pertaining to the guidelines for administering the revolving fund account for establishing group homes for recovering substance abusers. Public Law 102-321, the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act of 1992, amended the guidelines and thereby necessitates this rulemaking.

TITLE 48

PUBLIC HEALTH

PART VIII. Alcohol and Drug Abuse Services

Chapter 7. Group Homes for Recovering Substance Abusers

§701. Introduction

The Anti-Drug Abuse Act of 1988, (Public Law 100-690) established a program entitled Group Homes for Recovering Substance Abusers. This program requires the state to create a

revolving fund of at least \$100,000 to make loans of up to \$4,000 to non-profit private entities to provide housing for six or more individuals recovering from alcoholism or other drug abuse. This self-help group housing service is intended to enable recovering persons to sustain a chemical free lifestyle by accepting responsibility for operating a democratically run and self-supported alcohol and drug free recovery house.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258(E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Human Services, Division of Alcohol and Drug Abuse, LR 15:1081 (December 1989) amended by the Office of Alcohol and Drug Abuse, LR 19:

§703. Definitions

A. *Private Entity* — non-profit agencies or organizations or groups of six or more individuals. It may include a single individual, provided such individual provides evidence of recovering status from a treatment organization, and meets other requirements of these guidelines. This definition does not include public (governmental) agencies.

B. *Group Recovery Home* — a private residence, apartment complex or other type housing, with sleeping facilities for not less than six individuals in semi-private quarters, with bathing and kitchen facilities.

G. *Organization Loan* — a loan to a chartered or unchartered non-profit entity (as described in §709.A.1 and 2 hereinafter) for the purpose of enabling a group of not less than six individuals to establish a group recovery home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Human Services, Division of Alcohol and Drug Abuse, LR 15:1081 (December 1989), amended LR 17:603 (June 1991), amended by the Office of Alcohol and Drug Abuse LR 18:845 (August 1992), LR 19:

§707. Purpose of the Fund

The group homes for recovering substance abusers' program will make available start-up loans of up to \$4,000 per applicant group for the following type of expenses:

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258(E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Human Services, Division of Alcohol and Drug Abuse, LR 15:1081 (December 1989), amended LR 17:603 (June, 1991), amended by the Office of Alcohol and Drug Abuse, LR

§709. Eligibility Requirements

A. Eligible entities include:

2. non-chartered groups of six or more recovering persons;

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258(E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Human Services, Division of Alcohol and Drug Abuse, LR 15:1081 (December 1989), amended LR 17:603 (June 1991), amended by the Office of Alcohol and Drug Abuse, LR 19:

§712. Organizational Loan

A. Organizational loans are those made to non-profit entities or groups of six or more individuals for the purpose of enabling

recovering persons to establish a group recovery home.

B. Restrictions on Organizational Loans

1. must provide for housing for six or more residents in recovery.

10. Chartered organizations applying on behalf of a group of six or more individuals must provide assurance of compliance with §703.C and §705 above, and may impose no other regulation on the group recovery home or its residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258 (F)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Division of Alcohol and Drug Abuse, LR 15:1081 (December 1989), amended LR 17:603 (June 1991), amended by the Office of Alcohol and Drug Abuse, LR 18:845 (August 1992), LR 19:***

Interested persons may submit comments on the proposed changes to the following address: Joseph Williams, Jr., Assistant Secretary, BIN #9, Box 3868, Baton Rouge, LA 70821-3868. He is the person responsible for responding to inquiries regarding this proposed rule.

J. Christopher Pilley
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**Rule Title: Group Homes for
Recovering Substance Abusers**

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

There are no costs to implement this rule.

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

There is no effect on revenue collections of state or local governmental units.

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

There are no costs and/or economic benefits to directly affected persons or non-governmental groups. The amendments reflect the provisions of Public Law 102-321 which changed the minimum size of a group home for individuals recovering from alcohol and drug abuse from four to six.

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

There is no effect on competition and employment.

Joseph Williams, Jr.,
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Management and Finance**

Health Care Services Provider Fee

The Department of Health and Hospitals, Office of Management and Finance, proposes to adopt the following rule. This proposed rule was initially adopted as an emergency rule on July 1, 1992. It was readopted as an emergency rule which appears in the November 20, 1992, issue of the *Louisiana Register*.

Public Law 102-234, enacted on December 12, 1991, authorized states to adopt provider specific fees for medical services which include: nursing facility services; intermediate care facility services for the mentally retarded and developmentally disabled; and pharmacy services. This rule is being adopted to implement R.S. 46:2601 through 2605 which authorize the department to establish provider specific fees for the above listed services. Under this rule, the following fees are being adopted effective for services provided on or after July 1, 1992.

Nursing Facility Bed Fee \$10.00 per day, per bed in use
ICF-MR Facility Bed Fee \$30.00 per day, per bed in use
Pharmacy Services

Prescription Fee \$.10 per prescription or refill

This rule is being adopted to enhance federal funding and provide for financing of Medicaid health care services.

PROPOSED RULE

Under the provisions of R.S. 46:2601 through 2605, the Department of Health and Hospitals hereby adopts the following regulatory requirements for payment of provider specific fees for the following medical services: nursing facility services, ICF-MR facility services, pharmacy services, and transportation services.

I. Fees

A. Definition

Quarter- For purposes of this rule, quarters shall be constituted as follows:

First Quarter: December, January, February

Second Quarter: March, April, May

Third Quarter: June, July, August

Fourth Quarter: September, October, November

B. Nursing Facility Services. A bed fee shall be paid by each facility, licensed as a nursing home in accordance with R.S. 40:2009.3 et seq., for each bed utilized for the provision of care on a daily basis. The fee shall be \$10 per day, per bed utilized for provision of care. A bed shall be considered in use, regardless of physical occupancy, based on payment for nursing services available or provided to any individual or payer through formal or informal agreement. For example, a bed reserved and paid for during a temporary absence from a nursing facility shall be subject to the \$10 per day fee. Likewise, any bed or beds under contract to a hospice shall be subject to the fee for each day payment is made by the hospice. Contracts, agreements, or reservations whether formal or informal shall be subject to the \$10 per bed, per day fee only where payment is made for nursing services available or provided. Nursing homes subject

to bed fees shall provide documentation quarterly of utilization for all licensed beds in conjunction with payment of fees. Reporting shall be broken down on a monthly basis on the utilization report provided by the department.

C. **ICF-MR Facility Services.** A bed fee shall be paid by each facility, licensed as an intermediate care facility for the mentally retarded in accordance with R.S. 28:421 et seq., for each bed utilized for the provision of care on a daily basis. The fee shall be \$30 per day, per bed utilized for provision of care. A bed shall be considered in use, regardless of physical occupancy, based on payment for ICF-MR services available or provided to any individual or payer through formal or informal agreement. For example, a bed reserved and paid for during a temporary absence from a facility shall be subject to the \$30 per day fee. Likewise, any bed or beds under contract to a hospice shall be subject to the fee for each day payment is made by the hospice. Contracts, agreements, or reservations whether formal or informal shall be subject to the \$30 per bed, per day fee only where payment is made for nursing services available or provided. ICF-MR facilities subject to bed fees shall provide documentation quarterly of utilization for all licensed beds in conjunction with payment of fees. Reporting shall be broken down on a monthly basis on the utilization report provided by the department.

D. **Pharmacy Services.** A prescription fee shall be paid by each pharmacy and dispensing physician for each out-patient prescription dispensed. The fee shall be \$.10 per prescription dispensed by a pharmacist or dispensing physician. Where a prescription is filled outside of Louisiana and not shipped or delivered in any form or manner to a patient in the state, no fee shall be imposed. However, out-of-state pharmacies or dispensing physicians dispensing prescriptions which are shipped, mailed or delivered in any manner inside the state of Louisiana shall be subject to the \$.10 fee per prescription. The fee only applies to prescriptions which are dispensed and sold for human use. Pharmacies and dispensing physicians subject to prescription fees shall provide documentation quarterly of utilization for all medications dispensed in conjunction with payment of fees. Reporting shall be broken down on a monthly basis on the utilization report provided by the department.

E. **Transportation Services.** The fee for transportation services authorized under R.S. 46:2605(A)(1)(f) shall be set at \$0 (zero) pending federal designation of transportation services as a medical provider grouping under P.L. 102-234. Medical transportation providers shall not be required to provide utilization data under this rule.

II. Date Due for Submission of Reports and Payment of Fees

The department will mail to each licensed provider covered under the scope of this statute at the address given in the last report filed pursuant to the provisions of this act, or if no report was filed, to any address obtainable, a quarterly utilization report. Quarterly utilization reports and fees shall be submitted to the department and shall be due on the twentieth calendar day of the month following the close of the quarter and shall be deemed delinquent on the thirtieth calendar day of that month. Even if no fee is due submission of the report is still mandatory.

III. Violations

This Section describes the conditions under which interest and penalties will be assessed and the basis upon which amounts of any such interest or penalties will be determined.

A. **Interest on Unpaid Provider Fees.** When the provider fails to pay the fee due, or any portion thereof, on or before it becomes delinquent, interest at the rate of one and one-half per cent per month compounded daily shall be assessed on the unpaid balance until paid. In the case of interest on a penalty assessed, such interest shall be computed beginning 15 days from the date of notification of assessment until paid.

B. **Failure to Report.** In the case a report has been determined delinquent, the specific penalty shall be five percent of the total fee due on the report for every 30 days or fraction thereof that the report is not filed, not to exceed 150 days. When a report is not received within 150 days from due date, the report shall be deemed not filed and there shall be cause for an audit, investigation or examination to be made by the department.

C. **Incorrect Reporting.** If a provider submits a report required by the provisions of this section and the report made and filed does not correctly compute the liability of the provider there shall be cause for an audit, investigation or examination to be made by the department.

D. **False or Fraudulent Report.** When a provider files a report that is false or fraudulent or grossly incorrect and the circumstances indicate that the provider had intent to defraud the state of Louisiana of any fee due under this act, there shall be imposed, in addition to any other penalties provided, a specific penalty of 50 percent of the fee due.

E. **Insufficient Funds Check in Payment of Fee.** A specific penalty of \$20 shall be imposed on all NSF checks and this shall be cause for an audit, investigation or examination to be made by the department, and the provider will be required to make payment thereafter by certified check or money order.

F. **Reimbursement of Audit, Hearing, and Witness Costs.** If actions by a provider have caused the department to examine books, records, or documents, or an audit thereof, and conducts a hearing, or subpoenas witnesses, then the provider shall be assessed an amount as itemized by the department to compensate for all costs incurred in making such examination or audit, or in holding such hearing, or in subpoenaing and compensating witnesses.

IV. Appeals

Any provider aggrieved pursuant to the provisions determined herein shall have the right to administrative appeal as specified in R.S. 46:107.

V. Refund of Overpayment

The department shall refund any overpayment to the provider.

VI. Exceptions

The secretary may exempt any assessment of penalty and interest described in this rule.

Interested persons may submit written comments to the following address: H. K. "Woody" Sweeney, Undersecretary, Box 629, Baton Rouge, LA 70821-0629. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on January 29, 1993, in the Department of Transportation and Development Auditorium, First Floor, 1201 Capital Access Road, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
Rule Title: Provider Fee**

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

It is anticipated that implementation of this action will increase cost to the department of \$121,829,963 in FY 92-93, \$132,935,007 in FY 93-94 and \$132,941,023 in FY 94-95.

Increased costs anticipated as a result of the implementation of the proposed action will result from:

(a) the fee collection process, which will include \$1,032,839 in statutory dedicated provider fees and \$344,280 in matching federal medicaid funds in FY 92-93, \$1,026,117 in provider fees and \$342,039 in federal match in FY 93-94, and \$1,030,629 in provider fees and \$343,543 in FY 94-95;

(b) payment of the fees by governmental units on behalf of public facilities, which will include \$1,261,150 in statutory dedicated provider fees and \$3,615,688 in matching federal Medicaid funds in FY 92-93, \$1,290,710 in provider fees and \$3,589,100 in federal match in FY 93-94, and \$1,347,804 in provider fees and \$3,532,006 in federal match in FY 94-95;

(c) increases in Medicaid reimbursement rates to private providers of services which will include \$29,887,955 in statutory dedicated provider fees and \$85,688,051 in matching federal Medicaid funds in FY 92-93, \$33,508,722 in provider fees and \$93,178,319 in federal match in FY 93-94, and \$34,990,961 in provider fees and \$91,696,080 in federal match in FY 94-95;

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

As a result of the proposed action revenues can be anticipated to increase by \$654,570,483 in FY 92-93. Of this increase, \$169,271,927 will be from provider fee collections. These funds will be used as state match to generate the other \$485,298,556 of federal Medicaid matching funds. Anticipated revenues in FY 93-94 are \$699,413,083 of which \$185,344,467 will be from provider fee collections which will be used as state match for the additional \$514,068,616 of federal Medicaid matching funds. FY 94-95 revenues can be anticipated to increase by \$671,051,655 of which \$185,344,467 will be from provider

fee collections and the other \$485,707,188 will be the federal Medicaid matching funds.

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

The proposed action will allow the department to continue to provide the Medicaid benefits these funds support. If not funded, loss in benefits supported through this action are estimated at \$653,193,364 in FY 92-93, \$698,044,927 in FY 93-94, and \$669,677,483 in FY 94-95. There will continue to be a positive effect on the overall state economy as a result of the provision of these benefits. However, some of the cost of paying these provider fees will be passed on to consumers who may seek assistance from government or private sources to meet the cost of the services received.

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

The proposed rule will have no impact on competition and employment. However, if there were not a funding mechanism to ensure the provision of certain medical services, there would be a potential loss of employment opportunities currently available in the health care delivery system of the state.

J. Christopher Pilley
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Mental Health**

Qualified Mental Health Professional (LAC 48:III.103)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Mental Health proposes to adopt the following definition for Qualified Mental Health Professional (QMHP).

Title 48

PUBLIC HEALTH—GENERAL

Part III. Mental Health Services

Chapter 1. General Provisions

§103. Definitions

A. Qualified Mental Health Professional (QMHP) is defined by the Office of Mental Health as follows:

1. a physician who is duly licensed to practice medicine in the state of Louisiana and has completed an accredited training program in psychiatry; or

2. a psychologist who is licensed as a practicing psychologist under the provisions of state law; or

3. a social worker who holds a master's degree in social work from an accredited school of social work and is a board certified social worker under the provisions of R.S. 37:2701-2718; or

4. a nurse who is licensed to act as a registered nurse in the state of Louisiana by the Board of Nursing and:

a. is a graduate of an accredited master's level program in psychiatric mental health nursing followed by two years experience; or has a master's degree followed by two years of supervised experience in the delivery of mental health services; or

b. has four years of experience in the delivery of mental health services; or

5. a licensed professional counselor who is licensed as such under the provision of state law and has two years professional experience in the delivery of mental health services; or

6. an individual with a master's degree in a human services field or education followed by two years of supervised professional experience in the delivery of mental health services; or

7. an individual with a baccalaureate degree in a human services field or education followed by four years of supervised professional experience in the delivery of mental health services. (Delivery of mental health services includes provision of alcohol and drug abuse services.)

Note: Any person working in the capacity of a QMHP prior to adoption of this definition is exempt from meeting this definition. This definition of QMHP supersedes all other references included in the Louisiana Administrative Code and the Title XIX Medicaid State Plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:1-311.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Mental Health, LR 19:

Interested persons may submit written comments to the following address: Dr. Walter W. Shervington, Assistant Secretary, Office of Mental Health, Box 4049, Baton Rouge, LA 70821-4049. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on January 26, 1993, in the Department of Transportation and Development Auditorium, Capitol Access Road, Baton Rouge, LA at 10 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Qualified Mental Health Professional

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

There are no implementation costs anticipated from the adoption of this proposed rule.

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

The proposed rule will have no effect on revenue collections of state or local governmental units.

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

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no projected effect on competition and employment from implementation of this proposed rule.

Walter W. Shervington, M.D.
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Mental Health Rehabilitation Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to amend the following rule in the Medicaid program.

Mental Health Rehabilitation Services were adopted as an optional part of the covered services provided by Medicaid of Louisiana effective July 1, 1989, as published in the *Louisiana Register* Volume 15, Number 7, page 539. The final rule was published November 20, 1989, Volume 15, Number 11, page 976. Recent interpretations by the Health Care Financing Administration regarding the definition of these services requires that changes be made to the program in order to comply with federal regulations. These changes were adopted as an emergency rule published in the *Louisiana Register* Volume 18, Number 9, September 20, 1992, pages 937-939.

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

A public hearing on this proposed rule will be held on Friday, January 29, 1993, in the Department of Transportation and Development Auditorium, Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA, the policy prior to this change shall remain in effect.

J. Christopher Pilley
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Rule Title: Mental Health Rehabilitation Services

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

Implementation of mental health rehabilitation services will require an expenditure of \$1,551,600 for the state share of the cost of operation during fiscal 1992-93. For fiscal 93-94 that amount is projected to be \$2,258,691, and in 94-95, \$2,805,357.

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

The state will collect \$4,448,400 in federal matching funds for the costs of this program during fiscal 1992-93. The anticipated federal income in 93-94 is \$6,280,783, and in 94-95 it is \$7,351,621.

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

Medicaid recipients who are disabled due to mental illness will have access to outpatient services in their communities payable by Medicaid, and providers of such services will be able to bill for them.

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

Funding of this revised program will allow current and new providers of community based mental health services to expand their clientele to include Medicaid eligibles.

John Futrell
Medicaid Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Nursing Facility—Infectious Disease

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is proposing to adopt the following rule under Nursing Facility—Infectious Disease reimbursement in the Medical Assistance Program in accordance with the Administrative Procedure Act, R. S. 49:953(A). This proposed rule may be viewed in its entirety in the emergency rule section of this edition of the *Louisiana Register*.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to

inquires regarding this notice of intent. Copies of this rule and all other Medicaid rules and regulations are available at parish Offices of Family Support for review by interested parties.

A public hearing on this proposed rule will be held in the Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA, at 9:30 a.m. on January 29, 1993. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Rule Title: Nursing Facility—Infectious Disease

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

Implementation of this rule is projected to increase state expenditures by \$1,168,352 in SFY 1992-93; \$1,265,527 in SFY 1993-94; and \$1,397,870 in 1994-95.

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

Implementation of this rule is projected to increase federal revenue by \$3,349,636 in SFY 1992-93; \$3,519,074 in SFY 1993-94; and \$3,663,210 in SFY 1994-95.

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

Reimbursement rates to providers of Nursing Facility—Infectious Disease will increase by \$4,517,988 in 1992-93; \$4,784,601 in 1993-94; and \$5,061,080 in 1994-95 for approximately 1,746 persons.

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

This proposed rule will have no known impact on competition or employment.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Nursing Facility—Neurological Rehabilitation Treatment
Program**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is proposing to

adopt the following rule for the Nursing Facility—Neurological Rehabilitation Treatment Program in the Medicaid Program under the Administrative Procedure Act, R. S. 49:953(A). This proposed rule was adopted as a emergency rule under R.S. 49:953(B) effective November 2, 1992 and appears in the November 20, 1992, issue of the *Louisiana Register*.

Currently in the Medicaid Program, nursing facility services for persons in need of a neurological rehabilitation treatment program are being provided out of state due to the lack of in-state treatment centers with an established reimbursement mechanism for these patients. Under the current nursing facility reimbursement methodologies, there are no provisions for payment of the intensive services, specialized equipment and program of rehabilitative care required for these patients. In-state nursing facilities capable of providing such services to these patients are reluctant to accept them due to the adverse effect on their overall reimbursement. Therefore, in order to meet the needs of this patient group, Medicaid of Louisiana is implementing a new level of care with the applicable reimbursement methodology to be added to the Nursing Facility Program and identified as NF-Neurological Rehabilitation Treatment Program.

Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

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

A public hearing on this proposed rule will be held in the Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA, on Friday, January 29, 1993, at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Nursing Facility—Neurological Rehabilitation Treatment Program

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

Implementation of this rule is projected to reduce state expenditures by \$56,554 in SFY 1992-93; \$74,934 in SFY 1993-94; and \$79,431 in 1994-95.

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

Implementation of this rule is projected to reduce federal revenue by \$162,139 in SFY 1992-93; \$214,835 in SFY 1993-94; and \$227,725 in SFY 1994-95.

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

Reimbursement to providers of Nursing Facility services out of state will decrease by \$218,693 in 1992-93 for nineteen patients being treated out of state; \$289,769 in 1993-94; and \$307,156 in 1994-95.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have some beneficial impact on competition or employment through the creation of some additional jobs in Louisiana.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Software Product Approval on Medicaid
Eligibility Determination

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.

Medicaid of Louisiana has implemented a new program designed to make the Medicaid enrollment system much more accessible to the citizens of this state. Under a program titled the Louisiana Medicaid Outstationed Enrollment Center Program, certified Medicaid providers, in addition to certified non-for-profit agencies such as councils on aging and community action agencies, will begin completing Medicaid applications for interested clients at their respective facilities.

Certification to participate in this program is granted to those providers and other agencies which complete the required instructional training, in addition to all necessary documentation. This group of qualified enrollment centers includes a wide variety of types of facilities and agencies, including all of those listed above, particularly those mandated by federal law, federally qualified health centers and disproportionate share hospitals.

Although the process of completing applications is normally performed in a manual procedure, there are private companies that have developed computer software products designed to automate the process of completing Medicaid applications. These software products operate on common types of personal computers often used by enrollment centers.

However, due to the continually-changing nature of the

Medicaid program and the Medicaid application forms, The Bureau of Health Services Financing is mandating final approval of these companies' software products prior to any sale or distribution.

Mandatory screening and approval is imperative in order to ensure quality control in the Medical Assistance Program. Medicaid program requirements, both on the state and federal levels, are constantly undergoing modification. These changes usually have an impact on the Medicaid application forms; therefore, the bureau must screen, test and monitor these software companies' products in order to ensure the enrollment centers of having current software versions. All state and federal Medicaid program changes must be updated by software vendors seeking the BHSF's approval.

PROPOSED RULE

Companies interested in obtaining the Bureau of Health Services Financing's approval for commercial distribution of their Medicaid application software products, must meet the following criteria, guidelines and requirements.

Departmental approval will not be exclusive. The bureau will accept applications from all interested companies seeking approval. Interested applicants must submit their request, in writing, to the following individual: John Futrell, Director, Bureau of Health Services Financing, Department of Health and Hospitals, P. O. Box 91030, Baton Rouge, LA 70821-9030. Applicants must also submit with their request all program diskettes, operation manuals, instructional manuals, technical support agreements, warranties, and all other supporting pertinent literature accompanying the program software.

Upon review and testing of these products, the bureau will notify the applicants, in writing, with an approval decision, no earlier than October 1, 1993.

If an approval is granted, the following stipulations will be enforced in order to maintain approval status.

Approved companies must sign a binding agency agreement with the bureau prior to any authorized commercial distribution of its product. This agreement will only be in effect for two years, commencing no sooner than October 1, 1993, through October 1, 1995. The company must agree to timely update its software program to all of its customers within 30 days of any HCFA or DHH updates (i.e., income tables, application format, policy and program changes). Furthermore, the company must submit a complete disk copy of its software program updates to DHH within 30 days of such update.

Authorized companies receiving DHH approval must also post a \$50,000 performance bond in order to maintain its approved status.

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

A public hearing on this proposed rule will be held on Friday, January 29, 1992, in Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded

an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Commercial Software Companies, Medicaid Application Software Approval

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

There is no cost or savings to state or local government units.

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

There is no effect on revenue collections of state or local governmental units.

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

Companies obtaining departmental approval will realize a revenue impact from their commercial distributions of approved software products; however, there is no way to project the size and magnitude of these anticipated revenues, as a result of the adoption of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have an impact on competition, but only to the degree that companies unqualified to receive departmental approval will be prohibited from any commercial distributions of Medicaid application software products. There will be no impact on employment.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police Transportation and Environmental Safety Section

Motor Carrier Safety and Hazardous Materials Transportation
(LAC 33:V.10303, 10311)

The Department of Public Safety and Corrections announces its intent to amend the current rules adopted pursuant to R.S. 32:1501 et seq., relating to the Motor Carrier Safety and

Hazardous Materials Regulations for Carriage by Public Highway.

The department intends to repeal part of the rule that is in conflict with existing state law and rules. LAC 33:V.10311 Records of Violations is in direct opposition to existing state rule LAC 55:III.123 and existing state law R.S. 32:414.

These proposed rule changes are also to incorporate into LAC 33:V.10303 technical changes that have been amended since June, 1991, in the federal motor carrier safety regulations and hazardous materials transportation regulations as found in 49 CFR.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Materials and Hazardous Waste

Subpart 2. Department of Public Safety and Corrections-Hazardous Materials

Chapter 103. Motor Carrier Safety and Hazardous Materials Regulations for Carriage by Public Highways
§10303. Adopted Regulations

A. The following federal motor carrier safety regulations and hazardous materials regulations promulgated by the United States Department of Transportation, revised as of September 30, 1992, and contained in the following parts of 49 CFR as now in effect or as hereafter amended, are made a part of this Chapter...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:1115 (November 1991), amended LR 19:

§10311. Records of Violations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:1115 (November 1991), repealed LR 19:

Records of violations of adopted or promulgated regulations as provided in this Chapter shall not be subject to the requirements of R.S.32:393.1.

The proposed rule changes are scheduled to become effective on March 10, 1993. Comments will be accepted, in writing, by Lt. Kendall Fellon, Louisiana State Police, Transportation and Environmental Safety Section, Box 66614, Baton Rouge, LA 70896. Such comments will be accepted through close of business, January 20, 1993.

Col. Paul W. Fontenot
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Motor Carrier Safety and Hazardous Materials Transportation

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

There are no expected costs or savings to state or local governmental units from the proposed amendments to the rule.

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

There is no expected effect on revenue collections for 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 NON-GOVERNMENTAL GROUPS (Summary)

There is no projected impact on directly affected persons arising from adoption of these amended regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no known impact on competition or employment.

Linda Dawkins
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

AFDC Parenting Skills Program (LAC 67:III.2.1518)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67:III.2, the Aid to Families with Dependent Children Program.

Pursuant to ACT 579 of the 1992 Regular Session of the Louisiana Legislature, the department will offer a voluntary training program to certain recipients.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Aid to Families with Dependent Children (AFDC)

* * *

**Chapter 15. General Program Administration
Subchapter H. Parenting Skills Program
§1518. Availability**

A. The Office of Family Security will provide a parenting skills educational program to any AFDC recipient between the ages of 14 and 18 who becomes pregnant for the first time.

B. The program will be publicized in each OFS office and the department will also identify eligible recipients from case files and offer the program to each.

C. Training will be administered by the Office of Family Support. OFS may enter into cooperative agreements with other state agencies to perform this function in certain parishes.

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:

Interested persons may submit written comments within 30 days to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on January 26, 1993, in the Third Floor Conference Room, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: AFDC Parenting Skills Program

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

The Agency anticipates that the program can be operated within the existing budget of the Office of Family Support. There is no cost to local governmental units. The State's implementation cost for new printed materials and training kits is estimated to be \$6,303 for Fiscal Year 92/93. The rule provides no savings to state or local governments.

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

There will be no effect on revenue collection of any governmental unit.

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

There will be no cost or economic benefit to any individual or non-governmental group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The rule will have no impact on competition or employment.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Transportation and Development
Office of General Counsel

Exemptions from Tolls on the Sunshine Bridge
(LAC 70:I.505)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Department of Transportation

and Development intends to adopt the following rule which exempts certain firemen from the payment of tolls on the Sunshine Bridge, in accordance with the provisions of R. S. 33:1975.

Title 70 DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

Part I. Office of General Counsel

Chapter 5. Tolls

§505. Sunshine Bridge Exemption

A. All firemen shall have free and unhampered passage on and over the Sunshine Bridge.

B. Procedure

1. All firemen as defined in R.S. 33:1991(A) shall present for inspection by the toll collector, an identification card containing a photographic picture of the fireman. The identification card must be issued by the municipality, parish or district as referred to in R.S. 33:1991(A). If the departments do not have identification cards the fire chief will provide a current list of all firemen, as defined by R.S. 33:1991(A), currently assigned to the director of the Sunshine Bridge.

2. All firemen shall sign a register at the toll booth and provide the name of the agency, municipality, parish or district for which they are employed or engaged.

3. After compliance with Subsections A and B above, free and unhampered passage will be granted to the fireman.

AUTHORITY NOTE: Promulgated in accordance with R. S. 33:1975.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this notice of intent to: Richard C. Haynes, Administrative Director 2, Department of Transportation and Development, Box 1566, Donaldsonville, LA 70346, phone: (504) 474-2002.

Jude W.P. Patin
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Exemption from Tolls on the Sunshine Bridge

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

There are no implementation costs anticipated.

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

Revenue losses are estimated at \$1,000 per year based on the 5 full-time firemen employed by the Donaldsonville, LA Fire Department crossing 200 times each per year.

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

This action will save each fireman approximately \$200 per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment.

Jude W.P. Patin
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Transportation and Development
Office of the Secretary

Display of Flags (LAC:70:III.501)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Department of Transportation and Development intends to adopt amendments to the rule entitled "Display of American Flags within Highway Right-of-way," in accordance with the provisions of R. S. 48:21.

Title 70

DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT

Part III. Office of Highways

Chapter 5. Display of American Flags Within Highway
Right-of-Way

§501. Conditions

A-N. . . .

O. Drawings of the flag pole, footings and other structural features shall be attached with each permit request, and stamped by an engineer licensed by the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:21.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 17:678 (July 1991), amended LR 19:

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this notice of intent to: John Collins, Engineer Supervisor, Department of Transportation and Development, Box 94245, Baton Rouge, LA 70804-9245, phone: (504) 379-1509.

Jude W.P. Patin
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Rule Title: Display of Flags

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

There will be no additional cost to DOTD.

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 NON-
GOVERNMENTAL GROUPS (Summary)

This does not affect non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Jude W.P. Patin
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Wildlife and Fisheries
Office of Fisheries

Sturgeon (LAC 76:VII.145)

The secretary of the Department of Wildlife and Fisheries does hereby give notice of its intent to promulgate a rule governing the prohibition on the taking and possessing of sturgeon.

TITLE 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing
§145. Sturgeon

The taking or possession of Atlantic sturgeon, *Acipenser oxyrinchus*; Pallid Sturgeon, *Scaphirhynchus albus*; shovelnose sturgeon, *S. platyrinchus*; or their body parts or eggs (roe) is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:317.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:421 (May 1990), amended Office of Fisheries, LR 19:

Interested persons may submit written comments on the proposed rule to Bennie Fontenot, Administrator, Inland Fish Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Wednesday, February 10, 1993.

Joe L. Herring
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Rule Title: Prohibit Taking and Possession
of Sturgeon

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

The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out by existing enforcement personnel through routine patrol activities.

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

There will be no effect on revenue collections to state or local governments. A very small amount of funds could be received by local governments if citations are issued for illegal fishing.

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

There have been no reported commercial landings of surgeon recorded in Louisiana since 1951. It is not expected that this closure will have any significant impact to economic benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have a negligible impact on competition and employment.

Frederick J. Prejean, Sr.
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries Office of Fisheries

Triploid Grass Carp (LAC 76:VII.901)

The secretary of the Department of Wildlife and Fisheries does hereby give notice of its intent to amend the rule governing the importation, transportation and possession of live triploid grass carp for aquatic plant control in private and public waters.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 9. Aquaculture - Exotic Species

§901. Triploid Grass Carp

A. Rules and Regulations on Introduction of Triploid Grass Carp for Aquatic Plant Control

1. No person, firm or corporation shall at any time possess, sell or cause to be transported into this state by any other person, firm or corporation, triploid grass carp (*Ctenopharyngodon idella*), except in accordance with a permit issued under and in compliance with the following regulations.

The Department of Wildlife and Fisheries hereby adopts the following regulations governing the importation, transportation, possession, disposal and sale of live triploid grass carp for aquatic plant control in private and public waters, including ponds on public golf courses, municipal water treatment plants, parks and zoos. Nothing contained herein shall be construed to restrict or prevent the department from conducting bona-fide research studies and fish and aquatic plant management programs as authorized by law or regulation.

B. Definitions

1. *Department* - the Louisiana Department of Wildlife and Fisheries or an authorized employee of the department.

2. *Secretary* - the secretary of the Louisiana Department of Wildlife and Fisheries.

3. *Triploid grass carp* - refers to *Ctenopharyngodon idella* fingerlings and larger individuals that are certified as triploid (3N chromosomes) by the U.S. Fish and Wildlife Service or a qualified agent or contractor approved by the department.

4. *Triploid grass carp permit* - the official document that identifies the terms of and allows for the importation, transportation and possession of live triploid grass carp in Louisiana as approved by the secretary or his designee.

5. *Permittee* - the individual, business, corporation or organization that possesses a valid Louisiana triploid grass carp permit.

C. Triploid Grass Carp Habitat Management Request Procedures

1. Individuals or organizations wishing to import, transport or possess live triploid grass carp in Louisiana must first request a permit from the department through an application form furnished by the department.

2. The completed applications must be returned to the department, after which, department personnel will review the application and make an on-site inspection of the water body.

3. Upon completing the on-site inspection, the department personnel will make a final determination as to whether the applicant is in full compliance with all rules for the triploid grass carp management permit.

4. The secretary, or his designee, will notify the applicant in writing as to whether or not the permit has been granted and if not, the reasons therefore. In the event of disapproval, applicants may re-apply after specific measures are taken.

D. Rules on Transport of Triploid Grass Carp for Habitat Management

1. For each occurrence whereby the permittee wishes to import, transport or possess live triploid grass carp, the permittee must obtain written approval from the department using the following procedures.

a. Requests shall be made to the Permits Supervisor, Inland Fish Division, Louisiana Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

b. Requests shall include:

- i. Louisiana triploid grass carp permit number or a copy of the permit
- ii. route of transport
- iii. date of transport
- iv. time(s) of transport
- v. destination
- vi. owner of transport vehicle
- vii. total number of fish
- viii. identification of seller and buyer

2. A bill of lading must accompany those individuals in possession of living triploid grass carp during transportation and shall include:

- a. copy of the permittee's written approval as described in Paragraph 1 above;
- b. date and approximate time of shipment;
- c. route of shipment;

- d. source of triploid grass carp (hatchery);
- e. name, address and phone number of seller;
- f. name, address and phone number of buyer;
- g. copy of triploid certification;
- h. total number of fish;
- i. destination;
- j. display the words "TRIPLOID GRASS CARP" prominently on at least two sides of the vehicle or hauling tank with letters that are no less than four inches high.

E. Rules Applicable to Triploid Grass Carp Stocking Site

- 1. Only approved waters may be stocked.
- 2. Site must not have any direct connections with any other stream or lake. Any site containment measures must be approved by Inland Fish Division biologists.
- 3. Site must have a vegetation problem documented by the department that interferes with either access, esthetics, recreation, health, drainage, agriculture, municipal or industrial utilization or management of the water body.

F. General Rules for Triploid Grass Carp Habitat Management

- 1. Prior to introductions, each fish to be introduced must be certified as a triploid grass carp by the U.S. Fish and Wildlife Service or a qualified agent or contractor approved by the department. Such certification must be furnished to and approved by the department prior to introduction of any fish into any waters of this state.
- 2. No fingerlings under six inches in total length or eggs or fry shall be imported, transported or possessed in Louisiana.
- 3. Permits are not transferable from person to person or from site location to site location.
- 4. No person may permit the release of live triploid grass carp into waters of Louisiana without the written approval of the secretary or his designee.
- 5. Applicant shall provide an adequate number of triploid grass carp to the department, at no cost to the department, upon request, to verify triploidy. Cost of any test deemed necessary by the department shall be borne by the permittee.
- 6. The department shall approve final stocking rates for each applicant.
- 7. The department reserves the right to disapprove any permit application if, in the determination of the department, escape of triploid grass carp into the wild is a risk. If an escape incident occurs through either a meteorological event or structural failure, permit reapplications will receive a more critical review by the department.
- 8. Except in cases of mortality or unavoidable loss restocking will be permitted only at intervals of 2.5 years following the initial stocking.
- 9. The cost of a triploid grass carp permit shall be \$50 plus an additional fee for on-site inspection.
- 10. A permittee will be charged an administrative fee of \$25 for each importation occurrence beginning with the second occurrence.
- 11. Qualified universities conducting research approved by the department shall be exempt from fee charges.
- 12. If a permittee terminates the use of triploid grass carp in the permitted waterbody, the permittee shall notify the department immediately and dispose of the triploid grass carp according to methods approved by the department.

13. In addition to all other legal remedies, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All triploid grass carp shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

14. Any permittee charged with violation of the above rules has a right to make a written response to the alleged violation(s) to the secretary requesting a hearing to review the alleged violation(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318, 56:319 and 56:319.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17:806 (August 1991), amended LR 19:

Interested persons may submit written comments of the proposed rule to Bennie Fontenot, Administrator, Inland Fish Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Wednesday, February 10, 1993.

Joe L. Herring
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**Rule Title: Triploid Grass Carp -
Aquatic Plant Control**

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

There will not be any implementation costs. Permits will be printed in house and existing personnel will handle permit applications and site inspections.

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

The cost of each permit will be \$50 plus the cost of the inspection. At this time, the department cannot estimate the number of permits that might be issued, and therefore, cannot determine possible revenue.

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

Triploid grass carp are presently prohibited in Louisiana. The proposed action will allow pond and lake owners the option of utilizing lower cost biological control rather than expensive chemicals in aquatic weed control.

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

The proposed action will not have any immediate effect on competition and employment in this state.

Frederick J. Prejean, Sr.
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

King and Spanish Mackerel and Cobia Daily Take (LAC 76:VII.327)

The Louisiana Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a rule revising the regulations concerning bag limits for king mackerel, spanish mackerel and cobia.

TITLE 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §327. Daily Take and Possession Limits of King and Spanish Mackerel and Cobia

A. The recreational bag limit for possession of Spanish mackerel (*Scomberomorus maculatus*) whether caught within or without the territorial waters of Louisiana shall be 10 fish per person, per day.

B. The recreational bag limit for possession of king mackerel (*Scomberomorus cavalla*) whether caught within or without the territorial waters of Louisiana shall be two fish per person, per day.

C. A person subject to a bag limit for Spanish or king mackerel may not possess during a single day, regardless of the number of trips or the duration of a trip, any king or Spanish mackerel in excess of such bag limit, except that a person who is on a trip that spans more than 24 hours may possess no more than two daily limits, provided such a trip is aboard a charter vessel or headboat, and (1) the vessel has two licensed operators aboard as required by the U.S. Coast Guard for trips over 12 hours, and (2) each passenger is issued and has in possession a receipt issued on behalf of the vessel that verifies the length of the trip.

D. The recreational and commercial bag limit for possession of cobia (*Rachycentron canadum*) whether caught within or without the territorial waters of Louisiana shall be two fish per person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:325.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:868 (October 1989), amended LR 17:207 (February 1991), LR 19:

Interested persons may submit written comments of the proposed rule to Harry Blanchet, Marine Fish Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Wednesday, February 10, 1993.

James H. Jenkins, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Daily Take and Possession Limits of King and Spanish Mackerel and Cobia

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

There will be no state or local governmental implementation costs.

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

There will be no effect on revenues to any state or local governmental units from the proposed rule.

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

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment as a result of the proposed rule.

Frederick J. Prejean, Sr.
Undersecretary

David W. Hood
Senior Fiscal Analyst

POTPOURRI

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Department of Economic Development Office of Financial Institutions

Judicial Interest Calculation

Pursuant to the authority granted by Louisiana Civil Code article 2924(B)(3), as amended by Act 774 of 1989 and 1090 of 1992, the commissioner of Financial Institutions has determined the rate of judicial interest for the period beginning January 1, 1993, and ending December 31, 1993, to be 7.0 percent, in accordance with the formula mandated by Article 2924(B)(3).

The terms "prime rate" and "reference rate" shall be deemed synonymous for purposes of this calculation. Prime rate is the rate of interest established by a bank for its most favored corporate clients in commercial loan transactions.

The "prime rate" or "reference rate" for Chase Manhattan Bank, N.A., Manufacturers Hanover Trust Company of New York (merged with Chemical Bank, effective December 1, 1991), Morgan Guaranty Trust Company of New York, Bank of America National Trust and Savings Association and Citibank, N.A., was reduced to six percent at each institution on July 2, 1992, and was the same rate on October 1, 1992.

Louisiana Civil Code article 2924(3)(a) mandates that "{t}he effective judicial interest rate for the calendar year following the calculation date shall be one percentage point above the average prime or reference rate of the five financial institutions named in this Subparagraph or their successors."

The effective judicial interest rate for the calendar year beginning on January 1, 1993, shall be 7.0 percent.

This calculation and its "publication in the *Louisiana Register* shall not be considered rulemaking, within the intentment of the Administrative Procedure Act, R.S.49:950 et seq., and particularly R.S. 49:953", thus, neither a fiscal impact statement nor a "notice of intent" is required.

Larry L. Murray
Commissioner

POTPOURRI

Department of Environmental Quality Office of Solid and Hazardous Waste

Substantive Changes Meeting
(SW05s) (LAC 33:VII.Subpart 1)

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 the agency is seeking to incorporate substantive changes to the proposed amendments to the Solid Waste Regulations, LAC 33:VII.1 (SW05) which were originally proposed on September 20, 1992.

These substantive changes will address some of the following: location characteristics, upgrade schedule for ditches, financial assurance for corrective actions, liner requirements, gas collection systems, air monitoring requirements, groundwater monitoring requirements and operational standards, definition of solid waste and surface hydrology requirements.

A public hearing on the substantive changes will be held at 1:30 p.m. on January 7, 1993, in the DEQ Auditorium, Room 1400, First Floor, Department of Environmental Quality, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed substantive changes.

All interested persons are invited to submit written comments on the substantive changes. Such comments should be submitted no later than January 8, 1993, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810. Commentors should reference the proposed substantive changes as SW05s. Check or money order is required in advance for each copy of the proposed substantive changes. Log SW05 and Log SW05s are available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810;

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203;

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101;

Department of Environmental Quality, 3519 Patrick Street, Lake Charles, LA 70605;

Department of Environmental Quality, 3945 North I-10 Service Road West, Metairie, LA 70002;

Department of Environmental Quality, 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III
Assistant Secretary

POTPOURRI

Office of The Governor Office of Coastal Activities

Public Hearing

The Governor's Office of Coastal Activities will hold a series of public hearings to solicit comments and recommendations for the 1993-94 Coastal Wetlands Conservation and Restoration Plan. All interested persons are invited to attend.

The schedule for these hearings and the parishes to be covered by each is as follows:

January 21, Cameron, 7 pm, Police Jury Annex (Courthouse Square). Meeting will cover projects in Calcasieu and Cameron Parishes.

January 25, Abbeville, 7 pm, Vermilion Parish Courthouse (S. State St. and Tivoli St.) Police Jury Meeting Room 2nd Floor. Meeting will cover projects in Vermilion, Iberia, St. Martin, and St. Mary Parishes.

January 26, Houma, 7 pm, Courthouse Annex (Corner of School Street and Good Street). Meeting will cover projects in Assumption, St. James, Terrebonne and Lafourche Parishes.

January 27, Belle Chasse, 7 pm, Belle Chasse Auditorium (No. 207 Belle Chasse Highway). Meeting will cover projects in St. James, St. John, St. Charles, Plaquemines, Jefferson, Orleans, and St. Bernard Parishes.

January 28, Slidell, 7 pm, City Council Chambers (2055 Second Street, Second Floor). Meeting will cover projects in St. Tammany, Livingston and Tangipahoa Parishes.

Len Bahr
Executive Assistant

POTPOURRI

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

Alcohol and Drug Abuse Entity Licensing

The licensing of Comprehensive Care and Component Centers for Alcoholic and Drug Dependent Persons was enacted by Act No. 364 of 1975. The Act mandated the promulgation of standards by this agency and also set forth a fee for the issuance and renewal of licenses. Standards were adopted by notice in the *Louisiana Register* (volume 3, number 1, January 20, 1977) and subsequently amended by rule in the *Louisiana Register* (volume 12, number 1, January 20, 1986).

Act No. 624 of 1992 amended the fee provisions of Act No. 364 of 1975 by requiring that the secretary of the Department of Health and Hospitals fix the issuance and renewal fees for licensing such facilities.

In accordance with the provisions of R.S. 1058.3 and 1058.8, initial application or renewal fees to operate a comprehensive care center or component are hereby fixed at \$100. Facilities operated by the State of Louisiana are exempt from payment of application or renewal fees.

J. Christopher Pilley
Secretary

POTPOURRI

**Department of Social Services
Office of The Secretary**

ADA Self-Evaluation

The Department of Social Services (DSS) Office of the Secretary, is conducting a self-evaluation of its current services, policies, and practices as required by the federal regulations, 28 CFR 35.105(a), implementing the Americans with Disabilities Act of 1990. Persons, including individuals with disabilities or organizations representing individuals with disabilities, are invited to submit comments relative to this self-evaluation process prior to January 26, 1993. Comments may be sent to any of the following departmental contact persons:

Lora Carroccio, DSS, Office of the Secretary, Box 3776, Baton Rouge, LA 70821, telephone (504) 342-4774;

Lydia Pelz, Office of Family Support, Box 94065, Baton Rouge LA 70804-4065, telephone (504) 342-3858;

Mary Clary, Office of Community Services, Box 44367, Baton Rouge, LA 70804, telephone (504) 342-6640;

John Giese or Patsy Barrett, Louisiana Rehabilitation Services, Box 94371, Baton Rouge, LA 70804-4371, telephone (504) 925-4131.

Gloria Bryant-Banks
Secretary

POTPOURRI

**State Senate
Office of Fiscal Affairs and Policy Development**

Official Revenue Estimate

On October 15, 1992, the Revenue Estimating Conference met pursuant to the requirements of R.S. 39:26(A). After review and discussion of both state and national economic conditions, it retained the official revenue estimate for FY 1992-93, and adopted a revised official revenue estimate for FY 1993-94. The estimates for both fiscal years are as follows:

	FY 92-93 (in millions)	FY 93-94 (in millions)
Total Tax, License, and Fee receipts	\$5,279.8	\$5,462.5
Available State General Fund revenues	\$4,317.4	\$4,273.3

The economic and energy assumptions underlying these estimates, the individual estimates of Tax, License and Fee sources, and revenue dedications are reflected on the following tables.

**OFFICIAL REVENUE FORECAST
FOR FISCAL YEARS
1992-93 AND 1993-94**

(In Million \$)

	Official Forecast FY 92-93 8/13/92	Official Forecast FY 93-94 10/15/92
REVENUE SOURCE		
Alcoholic Beverage	\$16.0	\$16.0
Beer	\$33.0	\$33.0
Corporate Franchise	\$268.0	\$273.0
Corporate Income	\$235.0	\$260.0
Gasoline	\$380.0	\$383.0
Gift	\$2.5	\$2.5
Hazardous Waste	\$25.7	\$6.0
Individual Income	\$940.2	\$970.0
Inheritance	\$36.0	\$38.0
Insp. Fee - Gasoline	\$0.9	\$0.9
Natural Gas Franchise	\$12.0	\$14.0
Public Utilities	\$5.0	\$5.0
Auto Rental Excise	\$2.9	\$3.0
Sales Tax - General	\$1,523.2	\$1,555.0
Severance	\$451.0	\$490.0
Soft Drink	\$13.5	\$13.4
Special Fuels	\$75.0	\$75.8
Supervision/Inspection Fee	\$3.5	\$3.5
Tobacco	\$87.0	\$85.0
Unknown Owners	\$8.9	\$9.0
Miscellaneous Receipts	\$0.1	\$0.1
Total-Dept. of Revenue	\$4,119.4	\$4,236.2
Royalties	\$214.0	\$232.0
Rentals	\$8.0	\$7.0
Bonuses	\$6.0	\$6.0
Mineral Interest	\$3.0	\$3.0
Total-Natural Res.	\$231.0	\$248.0
Interest Earnings	\$33.0	\$32.0
Var. Agy. Receipts	\$11.5	\$12.0
Agency SGR Over-Collections	\$6.2	\$5.3
Bond Reimbursements	\$13.3	\$12.6
Quality Ed. Support Fund	\$53.0	\$53.0
Lottery Proceeds	\$140.0	\$140.0
DHH Provider Fees	\$166.7	\$187.3
Total-Treasury	\$423.7	\$442.2
Excise License	\$146.0	\$148.0
Ins. Rating Fees (SGF)	\$23.6	\$25.0
Total-Insurance	\$169.6	\$173.0
Alcoholic Bev. Permits	\$1.0	\$1.1
Miscellaneous	\$12.3	\$11.0
Titles	\$20.0	\$19.0
Vehicle Licenses	\$70.0	\$69.0
Vehicle Sales Tax	\$165.0	\$168.0
Video Draw Poker	\$67.8	\$95.0
Total-Public Safety	\$336.1	\$363.1
Total Taxes, Lic., Fees	\$5,279.8	\$5,462.5
Less: Dedications	(\$1,059.0)	(\$1,189.2)
Add: La. Rec. Dist. Reserves	\$96.6	\$0.0
Available for Exp.	\$4,317.4	\$4,273.3

DEDICATIONS

	Official Forecast FY 92-93 8/15/92	Official Forecast FY 93-94 10/15/92
Dedication		
Gasoline-Port of NO	\$0.5	\$0.5
Gasoline-L. Charles Harbor	\$1.0	\$1.0
Transportation Trust Fund	\$362.3	\$365.6
Motor Vehicles Lic. - TTF	\$26.0	\$28.6
Aviation Tax - TTF	\$5.3	\$3.0
Motor Fuels - Time	\$91.0	\$91.8
Motor Veh.Lic - Hwy Fund #2	\$9.8	\$8.2
Severance Tax -Parishes	\$26.0	\$26.4
Royalties - Parishes	\$21.4	\$23.2
Royalties - Atty. General	\$8.0	\$8.0
Wetlands Fund	\$15.0	\$25.0
Quality Ed. Support Fund	\$53.0	\$53.0
Sales Tax Econ. Development	\$14.6	\$15.0
Excise Lic. - 2% Fire Ins.	\$6.6	\$6.2
Excise Lic. -Fire Mars. Fd.	\$4.5	\$4.4
Excise Lic. - LSU Fire Tr.	\$0.9	\$0.9
Louisiana Recovery District	\$55.3	\$149.4
Tourist Promotion District	\$12.7	\$13.7
Environmental Trust Fund	\$6.4	\$1.5
Insurance Fees	\$8.7	\$8.7
Min. Revenue Stab. Fund	\$0.0	\$0.0
Video Draw Poker	\$23.3	\$27.8
Lottery Proceeds Fund	\$140.0	\$140.0
DHH Provider Fees	\$166.7	\$187.3
Total Dedications	\$1,059.0	\$1,189.2

FORECAST ECONOMIC ASSUMPTIONS

	1992	1993	1994
UNITED STATES			
Real GNP (in billion 1987 \$)	4,872	4,989	5,144
% Growth	0.4	2.1	3.1
Personal Income (in billion \$)	4,939	5,177	5,515
% Nominal Growth	4.0	4.8	6.5
% Real Growth	0.6	1.4	3.0
3 mo. Treasury Bill Rate	4.4	3.3	4.1
LOUISIANA			
Real Personal Income (million 1987 \$)	54,023	54,301	55,357
% growth from year ago	1.2	0.5	1.9
Nominal Personal Income (million \$)	65,827	68,414	72,244
% growth from year ago	4.6	3.9	5.6
Non-Agricultural Employment (thousands)	1,625	1,634	1,656
MINERAL RELATED ASSUMPTIONS			
Oil Production (million bbls)	147.9	147	145.9
Oil Price (\$/bbl)	19.19	20.50	21.00
Nat'l Gas Production (billion mcf)	1,626	1,591	1,551
Nat'l Gas Price (\$/mcf)	1.60	1.80	1.90

Further information regarding the details of the adopted forecasts may be obtained from the Senate Fiscal Office at (504) 342-8898, or Box 94183, Baton Rouge, LA, 70804.

Robert J. Keaton
Director

CULTURE, RECREATION AND TOURISM

Cultural Development, Office of
Arts program, 769N, 1115R
Office of State Library of Louisiana
Library construction, 978N, 1356R
State Parks, Office of
Use/carrying capacity, 663ER
General provisions/fees, 1421N

ECONOMIC DEVELOPMENT

Architectural Examiners, Board of
Continuing education, 250R
Examinations, 87N, 88N, 599R, 599R
Business Development Services, Office of
Regional Economic Development Alliance, 23R
Commerce and Industry, Office of
Environmental tax exemption, 240ER, 296N, 461P, 840R
Finance Division
Capital companies tax credit, 251R
Restoration tax abatement 252R
Cosmetology, Board of
Amendments, 1422N
Economic Development Corporation
BIDCO investment program, 89N, 1357R
Financial Institutions, Office of
Business/industrial development
corporations, 24R
Checks/money orders, 144R
Judicial interest, 1447P
Licensed lenders, 26R
Loan pools, 1138N
Loan production officers, 1144N
Oil/gas auction, 625N, 1115R
Real estate exchange, 1141N
Real estate financing, 1142N
Relocation application, 1271N
Self-help Repossessions, 1338ER
Stock exchange, 626N, 1116R
Racing Commission
Appointment qualifications, 367R
Association's duties, 366R
Drugged horse, 97N, 138ER, 369R
Failure to comply, 93N, 136ER
Field less than nine, 92N, 135ER, 366R
Horse under investigation, 94N, 136ER, 367R
Other reports, 136ER, 366R
Pari-Mutuel Tickets, 92N, 135ER
Publication of past performances, 94N, 136ER, 366R
Steward qualifications, 137ER
Testing split/referee sample, 95N, 137ER, 368R
Two races on a day, 96N, 138ER, 368R
Whips size/approval, 97N, 139ER, 369R

CR—Committee Report **EO—Executive Order**
ER—Emergency Rule **FA—Fee Action**
L—Legislation **N—Notice of Intent**
P—Potpourri **PFA—Proposed Fee Action**
PPM—Policy and Procedure Memorandum **R—Rule**

1992		
Pages		Issue
4 —	126	January
129 —	218	February
227 —	327	March
338 —	463	April
473 —	544	May
553 —	651	June
662 —	794	July
803 —	921	August
926 —	1025	September
1035 —	1185	October
1187 —	1333	November
1335 —	1459	December

AGRICULTURE AND FORESTRY

Agricultural and Environmental Sciences, Office of
Azinphos-methyl, 926ER
Commercial aerial pesticide, 6ER, 477ER, 622N, 953R
Commercial applicators, 819ER
Cotton seed, 624N, 954R
Landscape architect, 240ER
Pesticides, 247R
Pine Shoot Beetle, 1204ER, 1323P
Pink bollworm quarantine, 124P
Quarantine, 395N, 458P, 700R
Varroa mite quarantine, 124P
Animal Health Services, Office of
(Livestock Sanitary Board)
Brucella Abortus Antigen, 513N, 838R
Cattle, 199N, 509N, 510N, 510N, 511N, 512N, 514N,
835R, 836R, 836R, 837R, 837R, 838R,
1115R
Poultry, 978N, 1355R
Swine, 514N, 515N, 516N, 839R, 839R, 840R
Forestry, Office of
Public lands, 295N, 597R
Timber stumpage, 6ER, 1270N
Horticulture Commission
Examination, 217P, 218P, 544P, 911P, 1323P
Retail florist, 249R
Secretary, Office of
Rule procedures, 144R

CIVIL SERVICE

Civil Service Commission
Applications/appeals, 878N
Adverse actions, 624N, 768N
Certification of eligibles, 1420N
Elected Officials, Board of Ethics for
Disclosure statement, 83N, 598R
Public Employees, Commission on Ethics for

Real Estate Appraisal Subcommittee

Adjudicatory proceedings, 144R
 Certification education, 139ER, 599R, 600R

Real Estate Commission

Agency disclosure, 7ER, 26R
 Branch offices, 769N
 Out-of-state broker, 770N

Secretary, Office of

Employment Opportunity Loan Program, 926ER, 980N
 Small Business Bonding, 1047ER

Used Motor Vehicle and Parts Commission

Meeting schedule/location change fee, 771N, 1116R

EDUCATION**Bureau of Continuing Education**

Professional Improvement Program (PIP), 301N,
 602R

Elementary and Secondary Education, Board of

8(g) Annual Program, 297N, 600R
 8(g) Policy Manual, 878N, 1147N, 1248R
 ACT/SAT, 255R
 Administrators' Handbook, 663ER, 879N, 1052ER,
 1248R
 Adult Education Plan, 344ER, 627N, 664ER, 954R
 Algebra/Geometry curriculum, 27R
 Children First Legislation, 12ER, 28R
 Complaint management, 822ER, 1148N, 1346ER
 Computer literacy, 240ER, 400N, 555ER, 771N,
 1051ER, 1117R
 Disabled infants/toddlers, 98N, 241ER, 370R
 Dyslexic students, 9ER, 401N, 478ER, 826ER, 880N,
 1249R
 Early childhood, 665ER, 881N, 1249R
 Exceptional Children's Act, 664ER, 824ER, 879N,
 1148N, 1248R, 1346ER
 Exploratory elective, 200N, 492R
 Food and nutrition, 241ER, 370R
 High school graduation, 27R
 Holiday-presidential election, 27R
 Homeless Students, 1423N
 Home study, 255R
 Louisiana Components of Effective Teaching (LCET),
 927ER, 1149N, 1347ER
 MCOP guide, 1065ER, 1065ER
 Migrant education, 627N, 954R
 Minimum standards, 141ER, 1066ER, 1279N
 Model Career Options Program (MCOP), 146R,
 555ER, 880N, 1249R
 Montessori certification, 98N, 369R
 Parish Superintendent Advisory Council, 1206ER
 Personnel evaluation, 1052ER, 1278N
 Personnel Manual, 1205ER, 1424N
 Pupil appraisal handbook, 1052ER, 1147N, 1205ER
 Sign language, 297N, 601R
 Special education, 12ER, 28R, 300N, 478ER,
 602R, 820ER, 882N, 928ER, 1250R
 Teacher evaluation, 929ER
 Teacher tuition exemption, 99N, 370R, 667ER, 773N
 Teaching certificate revocation, 772N, 1117R
 Temporary employment permit, 13ER, 29R, 666ER,
 883N, 1066ER, 1250R
 Textbooks, 479ER, 628N

Transportation handbook, 1277N, 1346ER

Transportation services, 819ER

Tuition exemption, 773N, 1117R

Vo-tech

Fees, 9ER, 13ER, 27R, 29R, 30R

Flex hiring, 926ER, 1347ER

Institute/Regional Management Center, 300N,
 602R

Name change, 882N, 882N, 1065ER, 1118R, 1250R,
 1250R

Postsecondary curriculum, 27R

Postsecondary salaries, 256R

Salaries, 140ER

Technical institutes, 566ER, 666ER, 772N

Proprietary School Commission

Licensure renewal fee, 1279N

Student Protection Fund fee, 1280N

Student Financial Assistance, Office of

Award check stop payment, 301N, 603R

Cancelled loan/disbursement, 146R

Employment Opportunity Loan Program (LEO), 829ER,
 883N, 1206ER, 1251R, 1281N

Fee refund, 146R

GSL policy manual, 100N, 492R

Guarantee commitment, 773N, 1118R

Honors scholarship, 829ER, 884N, 1251R, 1424N

Louisiana Opportunity Loan Program (LA-OP), 100N,
 370R, 774N, 1118R

Mid-year scholarship, 302N, 603R

Teacher shortage areas, 147R

Tuition assistance, 147R, 302N, 303N, 603R,
 603R, 775N, 775N, 1119R, 1119R, 1149N

ELECTIONS AND REGISTRATION**Commissioner of Elections**

Voting equipment, 1066ER, 1282N

Voting machine storage/drayage, 1066ER, 1282N

ENVIRONMENTAL QUALITY**Air Quality and Radiation Protection, Office of**

Asbestos (AQ58), 777N, 1121R

Benzene emissions (AQ35), 1150N

Biomedical waste (AQ64), 777N, 1119R

Comprehensive Toxic Air Pollutant

Emission Control (AQ62), 981N

Distillation operations (AQ28), 376R

Emission standards (AQ60), 1067ER, 1283N

Fee system (AQ59), 402N, 706R

Hydrogen chloride emissions (AQ55), 258R

Inspection/maintenance, 1021P

Magnetic tape coating (AQ39), 31R

Naturally Occurring Radioactive Material (NORM)
 (NE04), 304N, 604R

CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Potpourri

PPM—Policy and Procedure Memorandum

EO—Executive Order

FA—Fee Action

N—Notice of Intent

PFA—Proposed Fee Action

R—Rule

Nonmetallic mineral processing (AQ45), 201N, 493R
 Ozone attainment, (N.O.), 1174P
 Particulate emissions (AQ43), 262R, 376R
 Permit procedures (AQ66), 1069ER, 1285N, 1428N
 Polychlorinated dibenzo-p-dioxins/
 dibenzofurans (AQ56), 403N, 707R
 Polymer manufacturing (AQ47), 303N, 610R
 Polymeric coating (AQ41), 150R
 Radiation fees (NE05), 404N, 718R, 955R
 Radiation protection (NE02), 34R
 Rubber tire manufacturing (AQ46), 205N, 496R
 State Implementation Plan (SIP), 793P, 911P, 1022P
 1174P

Steam generating units (AQ32), 150R
 Steel plants (AQ44), 106N, 377R
 Sulfur dioxide (AQ57), 104N, 374R
 Toxic air emission (AQ50A), 31R
 Toxic air pollutants (AQ62), 792P, 1151N, 1362R
 VOC emission
 Industrial surface coating (AQ40), 31R
 Petroleum refinery wastewater (AQ38), 158R
 VOC storage (AQ65), 778N, 1121R
 Toxic emissions report, 650P
 Vapor recovery systems (AQ61), 629N, 1254R
 Wood heaters (AQ42), 110N, 380R

Legal Affairs and Enforcement, Office of

Regulatory agenda, 461P, 1174P

Secretary, Office of

Reimbursement bonds, 461P
 Recycling tax credit (OS11), 517N, 840R, 960R

Solid and Hazardous Waste, Office of

AMAX metals, 912P
 Amends certain rules (HW31), 414N, 723R
 Boilers, industrial furnaces (HW32), 994N, 1375R
 Fee amendment petition, 324P
 Land Ban Petition (HW37), 1286N
 Maintenance/monitoring fee (UT03), 415N, 726R
 Non-HWSA Cluster IV-A (HW34), 884N, 1256R
 Permit application (SW04), 416N, 725R
 Permit review (HW35), 418N, 723R
 Public hearing (SW05s), 1448P
 Reclaim/recycle fees (HW36), 418N, 723R
 Registration exempt tanks (UT04), 421N, 727R
 Solid waste revisions (SW05), 995N
 Waste gas, (AP68), 1428N
 Waste tires (SW03), 34R, 164R
 Wood preserving (HW33), 995N, 1375R

Water Resources, Office of

Groundwater (GW04), 1151N
 Pollution control fees (WP11), 424N, 730R
 Public hearing, 793P
 Review/approval fees (GW03), 423N, 729R

EXECUTIVE ORDERS

BR 91-23—Allocates \$15,200,000 from the 1991 bond ceiling for the New Orleans Home Mortgage Authority, 4
 BR 91-24—Directs the Louisiana Housing Finance Agency to administer programs and resources and to promulgate regulations regarding the state's comprehensive housing affordability strategy (CHAS), 4
 BR 91-25—Reduces appropriations in certain state agencies

to avoid a general fund deficit, 5
 BR 91-26—Allocates excesses to various issuers for carry-forward projects, 131
 BR 91-27—Transfers functions, duties and responsibilities of the Office of Hospitals (with exceptions) to the Louisiana Health Care Authority governing board and the local boards, 131
 BR 92-1—Authorizes and outlines duties and responsibilities of the Public Advisory Committee (PAC) with respect to environmental issues, 132
 EWE 92-1—Allocates \$3,546,611 from the 1992 bond ceiling for the Louisiana Public Facilities Authority State-wide Student Loan Program, 134
 EWE 92-2—Allocates \$20,000,000 from the 1992 bond ceiling for Louisiana Power & Light Company (Waterford) in St. Charles Parish, 134
 EWE 92-3—Creates the Governor's Advisory Council on Drug-Free Schools and Communities and defines certain duties, 227
 EWE 92-4—Creates and defines certain personnel and duties of the Office of Permits, 227
 EWE 92-5—Creates a Task Force on African Trade, Finance and Development to market the state's products, goods, services and technologies to Africa, 228
 EWE 92-6—Creates the Louisiana Interagency Action Council for the Homeless, designating agency representation and defining certain functions, 228
 EWE 92-7—Prohibits sex discrimination by any state agency in employment practices and policies, in providing services, in purchasing services or in awarding service contracts, 229
 EWE 92-8—Authorizes the secretary of the Department of Transportation and Development, with approval of the State Bond Commission, to issue Series 1992 Bonds not to exceed \$46,000,000 to fund Project 1992, 230
 EWE 92-9—Establishes a Land Acquisition Task Force and defines certain responsibilities and duties, 231
 EWE 92-10—Authorizes a substance abuse policy and awareness program applicable to state employees, 231
 EWE 92-11—Establishes an Office of Maritime Advisor and defines certain duties and functions of the office, 232
 EWE 92-12—Appoints the senior advisor in the Office of Maritime Advisor, 232
 EWE 92-13—Establishes the Occupational Information Coordinating Committee (LOICC) and assigns its responsibilities, 233
 EWE 92-14—Authorizes inmate labor to be used to replace roofing at Hunt Correctional Center facilities, 233
 EWE 92-15—Establishes the position of Special Assistant to the Governor for Health Care and Hospitals and defines certain duties and functions of the position, 234
 EWE 92-16—Creates and defines certain duties and functions

CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Potpourri

PPM—Policy and Procedure Memorandum

EO—Executive Order

FA—Fee Action

N—Notice of Intent

PFA—Proposed Fee Action

R—Rule

- of the Executive Board on Aging, 234
- EWE 92-17—Creates the Emergency Response Commission and designates certain duties, 235
- EWE 92-18—Rescinds BR 91-25 and directs adjustments of appropriations for expenditures to achieve a balanced budget in the current fiscal year, 236
- EWE 92-19—Allocates \$15,225,000 from the 1992 bond ceiling for various projects, 338
- EWE 92-20—Adjusts appropriations for expenditures to ensure a balanced Transportation Trust Fund budget, 338
- EWE 92-21—Creates the Governor's Military Advisory Commission and designates certain duties, 339
- EWE 92-22—Creates and defines certain functions and goals of the Governor's Task Force on Shrimp Management, 340
- EWE 92-23—Establishes the Governor's Task Force on Maritime Industry and designates certain duties, 340
- EWE 92-24—Establishes the Office of Minority Affairs and assigns certain responsibilities and functions, 341
- EWE 92-25—Directs that the POW/MIA flag be flown throughout the remainder of the governor's term, 342
- EWE 92-26—Continues the operations of the Governor's Community Development Advisory Committee, 342
- EWE 92-27—Establishes individual Joint Committees between Louisiana and Quebec, Maritime Provinces and Belgium for cultural and commercial exchanges, 343
- EWE 92-28—Directs the Department of Transportation and Development to promulgate emergency rules requiring set-aside or preference programs for Blacks and women on all construction programs, 473
- EWE 92-29—Provides for preferred purchase of products and services from state supported workshops for persons with severe disabilities in conjunction with the Louisiana State Use Program, 474
- EWE 92-30—Establishes an Advisory Task Force on Environmental Quality and designates certain responsibilities, 474
- EWE 92-31—Expands the Land Acquisition Task Force to include the State Forester, 475
- EWE 92-32—Amends and supplements Executive Orders EWE 92-9 and EWE 92-31 regarding a Land Acquisition Task Force, 475
- EWE 92-33—Amends Executive Order EWE 92-6 to add four members-at-large to the Louisiana Interagency Action Council, 476
- EWE 92-34—Allocates \$10,000,000 from the 1992 bond ceiling for Calcasieu Parish's Public Trust Authority for the Mortgage Credit Certificate Program, 476
- EWE 92-35—Amends Executive Order EWE 92-30 to add three members-at-large to the Advisory Task Force on Environmental Quality, 477
- EWE 92-36—Amends EWE 92-5 to add members to the Task Force on African Trade, 553
- EWE 92-37—Establishes Governor's Advisory Council on Disability Affairs and defines membership and certain duties, 553
- EWE 92-38—Establishes the Inter-Agency Transportation Coordination Committee and defines membership and certain duties, 554
- EWE 92-39—Authorizes the Cash Management Review Board to prepare an interim agreement pertaining to exchange of federal and state funds, 554
- EWE 92-40—Higher Education Grants Coordinating Committee Duties, 662
- EWE 92-41—Directs the National Guard to provide manpower and equipment assistance to the Department of Public Safety and Corrections in medical crises, 662
- EWE 92-42—Allocates \$25,000,000 from the 1992 bond ceiling for Louisiana Public Facilities Authority for the Baton Rouge Water Company, 806
- EWE 92-43—Allocates \$1,850,000 from the 1992 bond ceiling for the Town of Vivian for Vivian Industries, Inc., 806
- EWE 92-44—Allocates \$3,000,000 from 1992 bond ceiling for Louisiana Public Facilities Authority for Pellerin Milnor Corporation, 807
- EWE 92-45—Establishes Governor's Advisory Board on Indian Gaming and describes duties and functions, 807
- EWE 92-46—Louisiana Tourism Development Commission designated as responsible for Scenic By-Way Program grant funds, 808
- EWE 92-47—Continues methods established by the Legislature regarding bond allocation and record keeping systems, 808
- EWE 92-48—Gives the Governor's Advisory Council on Drug Free Schools and Communities (Executive Order EWE 92-3) six additional members, 811
- EWE 92-49—Establishes the Calcasieu Estuary Environmental Task Force and defines certain duties, 811
- EWE 92-50—Charges the Department of Economic Development with responsibility of promoting high technology development and other economic development programs within the state, 813
- EWE 92-51—Establishes and defines certain duties of Louisiana Commission of Human Rights, 813
- EWE 92-52—Establishes and defines certain duties of the Governor's Task Force on Navigability and Public Access, 815
- EWE 92-53—Prescribes procedures for the procurement of small purchases within the Louisiana Procurement Code, 816
- EWE 92-54—Establishes the Natural Gas Marketing Board and defines certain duties and functions, 817
- EWE 92-55—Allocates \$27,140,000 from the 1992 bond ceiling for the parish of St. James for Freeport McMoran Resource Partners, Limited Partnership, 817
- EWE 92-56—Allocates \$3,625,000 from the 1992 bond ceiling for Louisiana Housing Finance Agency for Emerald Point Apartments, 818
- EWE 92-57—Transfers Louisiana Imports and Exports Authority and its functions to the Louisiana Public

CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Potpourri

PPM—Policy and Procedure Memorandum

EO—Executive Order

FA—Fee Action

N—Notice of Intent

PFA—Proposed Fee Action

R—Rule

EWE 92-58—Leave Policies for Unclassified State Employees, 1038
 EWE 92-59—Inspector General's authority and responsibilities, 1042
 EWE 92-60—Insurance Department office space, 1043
 EWE 92-61—Louisiana Emergency Response Commission Membership, 1043
 EWE 92-62—Hurricane Andrew JTPA cleanup in St. Mary Parish, 1043
 EWE 92-63—Governor's Task Force on Navigability and public access, 1044
 EWE 92-64—Governor's Task Force on Multiple-Drug Resistant Tuberculosis, 1044
 EWE 92-65—Land Acquisition Task Force additional members, 1045
 EWE 92-66—Hurricane Andrew JTPA cleanup in Iberia Parish, 1045
 EWE 92-67—Hurricane Andrew JTPA cleanup in St. Martin Parish, 1046
 EWE 92-68—Hurricane Andrew cleanup by parish employees in St. Mary, St. Martin and Iberia Parishes, 1046
 EWE 92-69—Creates a State Hazard Mitigation Team, 1047
 EWE 92-70—Interagency Action Council for the Homeless, 1190
 EWE 92-71—Appropriations adjustment, 1190
 EWE 92-72—Hurricane Andrew cleanup in Terrebonne Parish, 1197
 EWE 92-73—Governor's Advisory Council on Disability Affairs, 1197
 EWE 92-74—Bond Allocation by Louisiana Public Facilities Authority for Baton Rouge Water Company, 1197
 EWE 92-75—Bond Allocation by St. Charles Parish for Louisiana Power and Light Company, 1198
 EWE 92-76—Bond Allocation by St. Charles Parish for Union Carbide Chemicals and Plastics Company Inc., 1198
 EWE 92-77—Bond Allocation by St. James Parish for Kaiser Aluminum and Chemical Corporation, 1199
 EWE 92-78—Bond Allocation by St. Charles Parish for Shell Oil Company, 1199
 EWE 92-79—Hurricane Andrew cleanup in St. John the Baptist Parish, 1200
 EWE 92-80—Governor's Employment and Training Coordinating Council, 1200
 EWE 92-81—Louisiana Housing Finance Agency designated as "Housing Credit Agency", 1202
 EWE 92-82—Louisiana Housing Finance Agency to administer requirements of Housing Act, 1202
 EWE 92-83—Louisiana Housing Finance Agency to coordinate activities for Comprehensive Housing Affordability Strategy (CHAS), 1203

GOVERNOR'S OFFICE

Division of Administration

Commissioner's Office
 Medical Review Panel
 Change of address, 51R
 Community Development, Office of
 LCDBG Program, 1287N
 Facility Planning and Control
 Historic Restoration, 1077ER, 1154N
 Louisiana Property Assistance Agency
 Inventory Property, 430N, 632N, 1256R

Office of Telecommunications Management
 Non-state entity, 610R, 996N, 1375R
 Patient's Compensation Fund Oversight Board
 Actuarial study, 1299N
 Annual report, 1299N
 State Uniform Payroll
 Payroll deduction, 1207ER, 1429N

Coastal Activities, Office of

Public hearing, 1448P

Elderly Affairs, Office of

Adult protective services, 1212ER, 1430N
 Area Agency on Aging, 305N, 610R
 Corporate eldercare, 997N, 1376R
 Long-term care, 670ER, 885N, 1078ER, 1257R
 Long-term care ombudsman, 267R
 Multipurpose senior center, 431N, 735R
 State ombudsman, 265R

Law Enforcement and Administration of Criminal Justice

Felony sentencing, 44R, 164R, 480ER, 566ER, 631N, 669ER, 960R

Oil Spill Coordinator, Office of

Hearing, 1022P
 Oil Spill, 1175P
 Meeting, 1323P

Patient's Compensation Fund Oversight Board

Enrollment, 167R
 Self-insurance, 433N, 737R

Veterans Affairs, Department of

War veterans' home, 269R

Women's Services, Office of

Marriage license fees, 462P

HEALTH AND HOSPITALS

Alcohol and Drug Abuse, Office of

Substance abuse group homes, 519N, 845R, 1434N

Chiropractic Examiners, Board of

Continuing ed/General practice, 888N, 1378R

Dentistry, Board of

Complaints, 1300N
 Dental assistant, 1301N
 Dental hygienist, 307N, 737R, 1304N
 Dental specialist 308N, 738R
 Display of license, 310N, 740R
 Fees/costs, 311N, 741R, 1305N
 Hepatitis B Virus/HIV, 312N, 741R, 843R
 Informal dispositions, 1300N
 Laser use, 1304N

Dietetics and Nutrition, Board of Examiners in

Licensure, 633N

Embalmers and Funeral Directors, Board of

Examination, 462P, 1022P, 1175P

HIV Program Office

Home based care, 1219ER

CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Potpourri

PPM—Policy and Procedure Memorandum

EO—Executive Order

FA—Fee Action

N—Notice of Intent

PFA—Proposed Fee Action

R—Rule

Health Care Authority

Annual service agreement, 671ER, 1157N
Board nominations, 793P

Hospitals, Office of

LHCA service agreement, 14ER, 111N

Human Services, Office of

Case management certification, 434N
Community Care, 1078ER

Management and Finance, Office of

HIV health care, 125P, 520N, 529N, 569ER, 672ER, 846R, 847R

HIV nursing facility, 673ER, 1218ER

Provider fee, 1435N

Rural hospital, 54R, 181R

Rural emergency services, 1022P

Medical Examiners, Board of

Acupuncturist, 1306N

Hepatitis/HIV procedures, 207N, 325P, 1123R

Obesity medication, 205N, 325P, 744R, 843R

Occupational therapy, 1306N

Mental Health, Office of

Qualified mental health professional, 1437N

Nursing, Board of

Disciplinary proceedings, 999N

Disease transmission, 1000N

Nursing Home Administrators, Board of Examiners of

Administrator license, 181R, 507R

Pharmacy, Board of

Continuing education, 273R

Drug review, 893N, 1378R

Out-of-state requirements, 889N, 1378R

Patient counseling, 890N, 1378R

Support staff, 891N, 1378R

Physical Therapy Examiners, Board of

Licensure/fees, 634N, 962R

Physical therapist assistant, 1307N

Practical Nurse Examiners

Education/licensure, 635N, 893N, 1126R, 1259R

Professional Counselors, Board of Examiners of

License/practice, 51R

Mental health counseling, 269R

Psychologists, Board of Examiners of

Continuing education, 1155N

Testing, evaluation, assessment, 633N

Public Health, Office of

Children born outside of hospital, 896N, 1264R

HIV/AIDS, 182R

Neonatal screening, 779N, 1130R

Nutrition, 912P

Sanitary Code

Day care/residential facilities, 897N, 1381R

General provisions, 114N, 386R, 901N, 1264R

HIV/AIDS, 1309N

Mechanical wastewater, 115N, 442N, 674ER, 746R, 1159N

Plumbing, 314N, 618R

Public hearing, 1023P

Sewage disposal, 115N, 387R

Sewage installation, 902N, 1264R

Water supplies, 116N, 387R, 618R

Tanning facilities, 274R, 1310N

Yellow fever, 896N, 1386R

Secretary, Office of

ADMS Block Grant, 531N, 848R

AFDC/SSI eligibles, 18ER, 572ER, 638N, 963R

Alcohol/Drug abuse, 1449P

Alimony/child support income, 54R

Anesthesia services, 19ER, 636N, 963R

Case management, 570ER, 636N, 964R

Chiropractor, 1003N, 1401R

Community/family support system, 185R, 1001N, 1390R

Computer matching programs, 391R

Concurrent care, 54R

Controlled dangerous substances, 1132R

Countable resources, 1348ER

Disproportionate share, 16ER, 363ER

Excess income eligibility, 674ER

Facility need review, 1347ER

Federally-qualified health center, 16ER, 571ER, 780N, 1132R

HIV Care, 1324P

Home health agencies, 57R

Infant, developmentally delayed, 210N, 849R

Infant inpatient, 572ER, 782N, 1132R

Informed consent, 1002N, 1391R

LHCA service agreement, 14ER, 111N

LaSalle Parish nursing facility, 218P

Long-term care, 832ER, 936ER

Maternal and Child Health Block Grant, 531N, 848R

Medicaid eligibility, 832ER

Medicaid interim payment, 912P

Medical transportation, 640N, 963R

Mental health, 937ER, 1438N

Neurological rehabilitation, 1220ER

Non-ambulance reimbursement, 243ER, 965R

Non-emergency ambulance, 571ER, 640N, 641N, 964R

Non-emergency transportation, 573ER

Nurse aid, 1349ER

Nursing facility, 189R, 1350ER, 1439N, 1439N

Nursing home, 18ER, 573ER, 642N

OBRA (1990), 19ER

Outpatient pharmacy, 364ER, 364ER

Personal care attendant, 675ER, 1219ER, 1312N

Pharmacy service, 57R, 639N, 964R

Prescription limitation, 17ER

Preventive Health and Health Services

Block Grant, 531N, 848R

Psychiatric facility, 781N, 1132R

Rural care/hospital, 20ER

Software, 1440N

Traumatic brain injury, 21ER

Urine drug screening, 188R

Utilization review, 643N, 675ER, 794P, 913P, 1401R

Vendor payments, 391R

Veterinary Medicine, Board of

Examinations, 1175P

Fees, 111N, 380R

CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Potpourri

PPM—Policy and Procedure Memorandum

EO—Executive Order

FA—Fee Action

N—Notice of Intent

PFA—Proposed Fee Action

R—Rule

License, 482ER, 1430N
National examining, 1347ER
Preceptorship, 1308N
Public hearing, 1432N
Temporary permits, 1156N

Wholesale Drug Distributors, Board of
Operating rules, 381R

INSURANCE

Commissioner of Insurance

Accelerated benefits (Reg 44), 1010N, 1409R
Defense costs within limit (Reg 38), 746R
Group self-insurance (Reg 42), 1005N, 1403R
Hazardous financial condition (Reg 43), 1004N, 1408R
Holding company (Reg 31), 274R
Information transmittal (Rule 12), 316N, 620R
Insolvency disclaimer (Reg 40), 215N, 620R
Insolvency protection (Reg 39), 213N, 619R
LLHIGA (Reg 40), 913P, 1013N, 1401R
Medicare supplement insurance (Reg 33), 682ER,
902N, 1265R

LABOR

Employment Security, Office of

Itinerant services, 372R
Magnetic media reports, 372R
Wage, average, 911P

Labor, Office of

JTPA, 102N, 372R, 493R

Plumbing Board

Master plumber, 30R

Workers' Compensation, Office of

Employee rehabilitation, 147R
Hearing officer, 1313N
Medical fee schedule, 776N
Medical reimbursement schedule, 1079ER, 1163N
Utilization review, 257R

LOUISIANA ADMINISTRATIVE CODE UPDATE

Administrative Code Update

Cumulative, January 1991 - December, 1991, 121
Cumulative, January 1992 - March, 1992, 458
Cumulative, January 1992 - June, 1992, 791
Cumulative, January 1992 - September, 1992, 1137

LOUISIANA SENATE

Fiscal Affairs and Policy Development, Office of

Revenue estimate, 1449P

NATURAL RESOURCES

Conservation, Office of

Compressed natural gas, 60R
Drug testing, 442N, 852R
Emergency Natural Gas Allocation Plan, 64R
Hazardous liquids transport, 444N, 861R
Pipeline safety, 443N, 852R
Underwater obstructions, 643N, 1411R

Mineral Resources, Office of

Geophysical/geological surveys, 70R

Secretary, Office of

Coastal restoration, 281R
Fishermen's Gear
Claims, 125P, 218P, 325P, 463P, 544P, 650P, 794P,
913P, 1023P, 1175P
Fees, 117N, 391R

PORT COMMISSIONS

Port of New Orleans

Associated Branch Pilots, Board of Examiners of
Conduct/safety, 72R
Associated Branch Pilots, Board of Review of
Complaint procedures, 76R

PUBLIC SAFETY AND CORRECTIONS

Corrections Services

Death penalty, 77R
Medical parole, 903N, 1265R

Fire Marshal, Office of

Uniform construction code, 21ER

Liquefied Petroleum Gas Commission

Gas conversion, 486ER, 532N, 866R

Pardons, Board of

Clemency, 483ER

Private Security Examiners, Board of

Contract security, 189R
Training, 449N

Public Safety Services

Riverboat gaming, 1080ER

State Police, Office of

Bingo, Keno, raffle, 283R
Breath/blood alcohol test, 682ER, 904N, 1266R
Hazardous materials transport, 78R, 450N, 746R, 1441N
Video draw poker, 196R

PUBLIC SERVICE

Public Service Commission

Classified employees, 216N

REVENUE AND TAXATION

Sales Tax Division

Pollution control, 532N, 1014N, 1414R
Sales/use tax, 287R

Severance Tax Division

Natural gas, 463P

Tax Commission

Ad valorem, 197R, 1223ER, 1314N
Orleans Parish appraisal/assessment, 125P
Stumpage value, 6ER, 1314N

CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Potpourri

PPM—Policy and Procedure Memorandum

EO—Executive Order

FA—Fee Action

N—Notice of Intent

PFA—Proposed Fee Action

R—Rule

SOCIAL SERVICES

Community Services, Office of

Adoption, 141ER, 198R, 451N, 487ER, 747R
Adoption subsidy, 574ER, 646N, 965R
Block Grant Program, 451N, 747R
Child abuse/neglect, 79R
Child protection, 198R, 316N, 683ER, 913P,
1246ER
Emergency shelter, 326P
Energy assistance, 794P
Repeal of rules, 79R
Social Services Block Grant (SSBG), 463P
State Voluntary Registry, 22ER
Vendor day care, 364ER, 534N, 685ER, 868R
Weatherization Assistance Program, 126P

Family Support, Office of

AFDC program, 244ER, 536N, 687ER, 869R, 913P,
1442N
Flood insurance, 939ER
Food stamps, 22ER, 142ER, 245ER, 394R, 686ER,
687ER, 783N, 905N, 906N, 907N, 914P,
939ER, 1024P, 1091ER, 1092ER, 1133R,
1164N, 1175P, 1266R, 1268R, 1268R,
1351ER

Individual/family grant, 1165N, 1352ER

JOBS

Participation requirements, 80R
Project Independence, 244ER, 453N, 537N, 646N,
748R, 870R, 967R, 1092ER
Lottery winnings, 118N, 507R
Paternity blood tests, 538N, 870R
Refugee assistance, 22ER, 394R
Transitional child care, 908N, 1268R

Rehabilitation Services, Office of

Examination, 218P
Hearing, 1025P
Sign language, 488ER, 647N, 968R
Supported employment, 1315N
Supported living, 1316N

Secretary, Office of

ADA - Self evaluation, 1449P
Child Care and Development Block Grant, 288R, 783N,
1133R
Child care assistance, 909N, 1016N, 1269R, 1415R
Child care providers, 650P
Community/family support system, 185R, 1001N, 1390R
Daycare centers, 538N, 970R
Title IV-A At-Risk Child Care, 288R

STATE

Secretary, Office of

Classified employee, 1352ER

Uniform Commercial Code, Office of

Farm product encumbrance, 1247ER
Secured transactions, 118N, 392R

TRANSPORTATION AND DEVELOPMENT

Crescent City Connection Division

Firemen, equipment, 940ER
Student vehicle, 940ER

Flood Control and Water Management Division

Port construction, 749R, 870R

General Counsel, Office of

Bus stops, 1170N
Sunshine Bridge tolls, 1443N

Highways, Office of

Logo signs, 784N
Recycling highway material, 648N, 973R
Utility relocation, 1017N, 1415R

Professional Engineers and Land Surveyors, Board of Registration for

Bylaws, 1166N
Certification, registrations, permits, 1168N

Public Transportation, Office of

Railroad traffic, 319N, 761R

Sabine River Compact Administration

Meeting, 544P, 1176P

Secretary, Office of

Flag display, 1444N
Oversize permit, 216N, 508R

TREASURY

Bond Commission

Issuer, reporting, 649N, 1418R
Line of credit, 1354ER

Deferred Compensation Commission

Member nomination, 1488R
Participant member, 1019N
Restated plan, 323N, 762R

State Employees Group Benefits Program,

Board of Trustees of the

Act 601 of 1992, 1316N
Disability, 1354ER
Fee schedule, 1093ER, 1317N
Participant employer, 246ER
Plan document, 575ER, 1093ER, 1318N, 1353ER
Retirees/dependents surcharge, 454N

State Employees' Retirement System, Board of Trustees of the

Actuarial calculation, 977R
Deferred Retirement Option Plan (DROP), 81R
Emergency refunds, 974R
Handicapped/mentally retarded children, 977R
Judicial retirement, 974R
Military, 975R, 975R
Multiple positions service, 977R
Payroll deduction, 1417R
Reinstated employees, 977R
Trustees, 81R

Teachers' Retirement System, Board of Trustees of the

Deferred Retirement Option Plan (DROP), 321N, 621R,
833ER, 1019N, 1419R

CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Potpourri

PPM—Policy and Procedure Memorandum

EO—Executive Order

FA—Fee Action

N—Notice of Intent

PFA—Proposed Fee Action

R—Rule

WILDLIFE AND FISHERIES

Fisheries, Office of

King Mackerel, 596ER, 1247ER
Mussel, 1318N
Red Snapper, 596ER
Sturgeon, 1444N
Triploid Grass Carp, 1445N

Wildlife, Office of

Threatened/endangered species, 455N, 877R

Wildlife and Fisheries Commission

Alligator, 491ER, 689ER, 689ER, 910N, 941ER, 941ER,
1171N
Bait dealers, 1172N
Black Bass, 1114ER, 1322
Cobia, 1447N
Commercial fisherman
Sales card, 81R
Sales report, 82R, 198R
Crab trap, 199R
Fish/wildlife values, 290R
Furbearer trapping, 952ER
Game Breeder's license, 455N, 1134R
Gill/trammel net, 294R
King Mackerel, 143ER, 1447N
Lake Bruin, 294R
Mayhaw fruit, 290R
Menhaden, 833ER, 1020N
Migratory game birds, 834ER
Mullet, 143ER, 596ER, 699ER, 910N, 1114ER, 1420R
Oyster season, 366ER
Oyster seed grounds, 834ER
Paddlefish, 543N, 978R
Records confidentiality, 82R
Resident game, 323N, 767R
Seed oysters, 23ER
Seismic exploration, 508R
Shrimp season
Chandeleur Sound, 246ER
Spring inshore, 491ER, 700ER, 700ER, 835ER
Fall inshore, 835ER
White shrimp, 1355ER
Spanish Mackerel, 1447N
Spotted Seatrout, 199R, 217CR
Waterfowl, 952ER
Wild birds, 542N, 1136R
Wild Louisiana stamp, 1320N

CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Potpourri

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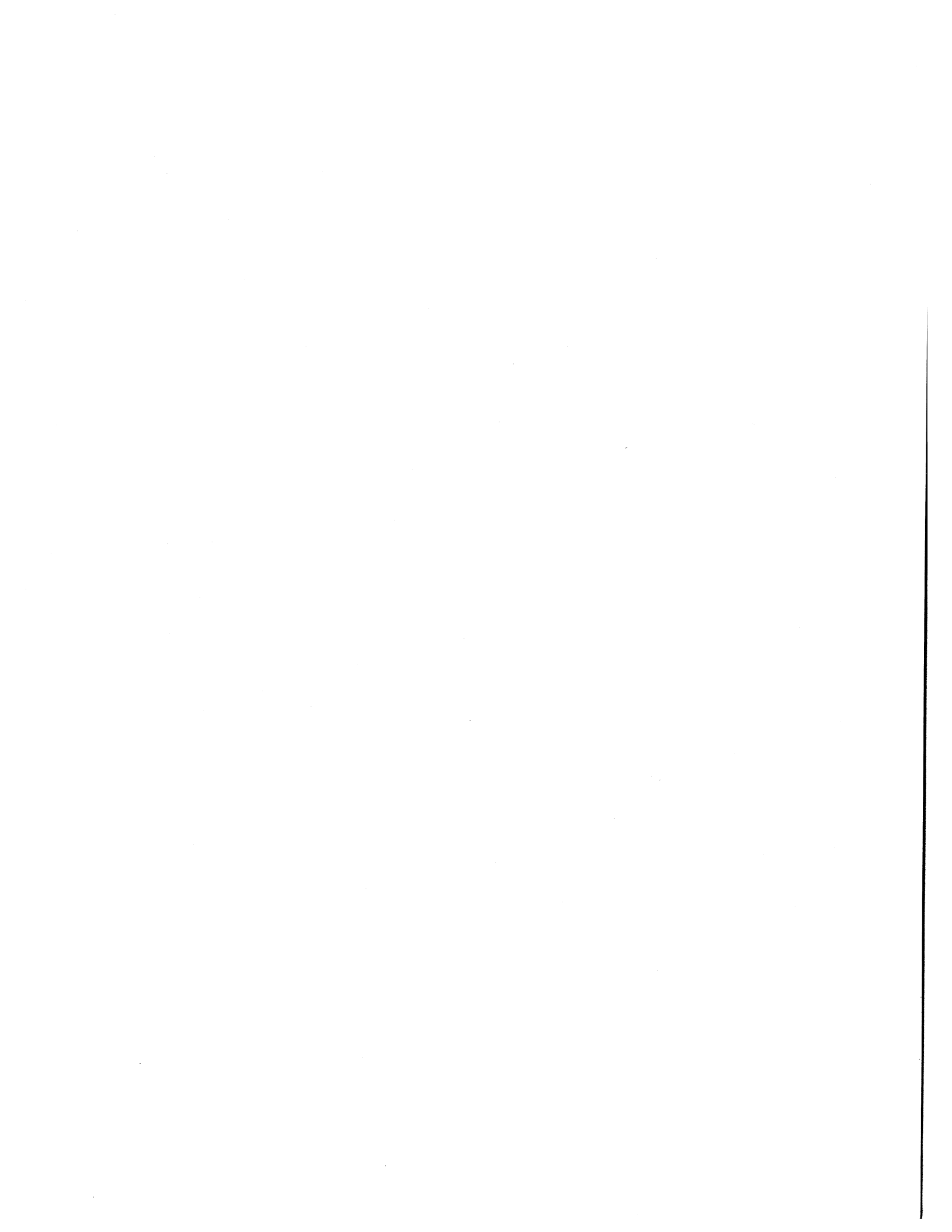
PFA—Proposed Fee Action

R—Rule

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