

NOTICE TO STATE AGENCIES

THE ADMINISTRATIVE PROCEDURE ACT, AS AMENDED DURING 1997 LEGISLATIVE SESSION, WILL BE PUBLISHED IN ITS ENTIRETY IN A LATE FALL EDITION OF THE *LOUISIANA REGISTER*.

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This public document was published at a total cost of \$5,769.00. Nine hundred, seventy-five copies of this public document were published in this monthly printing at a cost of \$3,769.00. The total cost of all printings of this document including reprints is \$5,769.00. This document was published by Bourque Printing, Inc., 13112 South Choctaw Drive, Baton Rouge, LA 70815, as service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-999. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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Executive Orders

EXECUTIVE ORDER 97-33

Drug Testing Task Force

WHEREAS: to curb the use of illegal drugs by public employees, elected officials, beneficiaries of certain public assistance programs, and persons who receive anything of economic value or any funding from the State of Louisiana or any entity thereof, the Louisiana Legislature has enacted laws which provide for the creation of drug testing programs for these persons;

WHEREAS: Act Number 1306 of the 1990 Regular Legislative Session created a drug testing program for public employees, as set forth in R.S. 49:1015, as amended by Act Number 1194 of the 1997 Regular Legislative Session;

WHEREAS: Act Numbers 1303 and 1459 of the 1997 Regular Legislative Session created additional drug testing programs which direct:

1) the Board of Ethics to develop and administer a program of random drug testing of all elected officials, and the commissioner of Administration and the secretary of the Department of Health and Hospitals to provide assistance in the development, design, and implementation of the program;

2) the secretary of the Department of Social Services, in consultation with the secretary of the Department of Health and Hospitals and the commissioner of Administration, to establish a mandatory drug testing program for certain adults in the Temporary Assistance for Needy Families Block Grant Program; and

3) the commissioner of Administration to establish and administer a program of random drug testing for all persons who receive anything of economic value or receive any funding from the state or any entity thereof; and

WHEREAS: it is in the best interest of the citizens of the State of Louisiana that the implementation of these four drug testing programs be accomplished in a consistent, uniform, and cost effective manner;

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

SECTION 1: The Drug Testing Task Force (hereafter "task force") is established within the Executive Department, Office of the Governor.

SECTION 2: The objectives and duties of the task force shall include, but are not limited to, the following:

A. determining the scope and content of the four drug testing programs that are authorized and mandated by legislation;

B. identifying and analyzing existing state programs which may be capable of providing support services for a central drug testing program;

C. delineating any limitations which the Constitutions of the United States of America and the State of Louisiana or any federal or state laws may have on the four drug testing programs; and

D. recommending procedures for the implementation of the four drug testing programs in a consistent, uniform, and cost effective manner.

SECTION 3: The task force shall submit a comprehensive written report to the Governor, by November 1, 1997, which addresses the issues set forth in Section 2.

SECTION 4: The task force shall be composed of at least nine members who shall be appointed and serve at the pleasure of the Governor and who shall be selected as follows:

A. the chief of staff, Office of the Governor, or the chief of staff's designee;

B. the executive counsel, Office of the Governor, or the executive counsel's designee;

C. the commissioner of Administration, or the commissioner's designee;

D. the secretary of the Department of Social Services, or the secretary's designee;

E. the secretary of the Department of Health and Hospitals, or the secretary's designee;

F. the attorney general, or the attorney general's designee;

G. the president of the Louisiana Senate, or the president's designee chosen from the membership of the Senate;

H. the speaker of the House of Representatives, or the speaker's designee chosen from the House of Representatives; and

I. the chair of the Ethics Board, or the chair's designee.

SECTION 5: The Governor shall appoint the chair from its membership. All other officers shall be elected by the task force.

SECTION 6: Support staff for the task force shall be provided by the Division of Administration.

SECTION 7: Task force members shall not receive compensation, a per diem, or travel expenses from the Office of the Governor or the Division of Administration.

SECTION 8: All departments, commissions, boards, agencies, and officers of the state, or of any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 9: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and cause to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 29th day of August, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9710#001

EXECUTIVE ORDER 97-34

Bond Allocation—New Orleans Home Mortgage Authority

WHEREAS: Executive Order MJF 97-25 allocated a portion of the bonds subject to the private activity bond volume limit for the calendar year of 1997 to the New Orleans Home Mortgage Authority to be used for financing mortgage loans for first time home buyers throughout the Parish of Orleans, in accordance with the provisions of Section 143 of the *Internal Revenue Code of 1986*, as amended; and

WHEREAS: Section 3 of Executive Order MJF 97-25 required the bonds in the bond issue to be delivered to initial purchasers on or before September 4, 1997; and

WHEREAS: due to scheduling considerations, the bond issue was not approved by the State Bond Commission until August 21, 1997; therefore, the bonds will not be deliverable to initial purchasers until late September;

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

SECTION 1: Section 3 of Executive Order MJF 97-25 is amended to provide as follows:

The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before October 14, 1997.

SECTION 2: All other sections and subsections of Executive Order MJF 97-25 shall remain in full force and effect.

SECTION 3: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be fixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 29th day of August, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9710#002

EXECUTIVE ORDER 97-35

Louisiana Data Base Commission

WHEREAS: Act 907 of the 1995 Regular Legislative Session enacted R.S. 39:291, et seq., and created the Louisiana Data Base Commission (hereafter "commission") within the Office of the Governor, Division of Administration;

WHEREAS: Act 1271 of the 1997 Regular Legislative Session (hereafter "Act 1271"), which became effective upon signature of the Governor on July 15, 1997, amended certain provisions of R.S. 39:291 pertaining to the composition of the membership of the commission and the manner in which its chair is selected; and

WHEREAS: Act 1271 mandates that the initial meeting of the commission shall be called by executive order and that the Governor shall appoint a temporary chair to serve until an election is held;

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

SECTION 1: In accordance with the provisions of R.S. 39:291(d), as amended by Act 1271 of the 1997 Regular Legislative Session, the commissioner of Administration shall temporarily serve as chair of the Louisiana Data Base Commission (hereafter "commission") until the membership of the commission elects a chair.

SECTION 2: The commissioner of Administration, in his capacity as temporary chair, shall call the initial meeting of the commission and shall schedule the meeting to be held prior to September 30, 1997.

SECTION 3: The Division of Administration shall provide the support staff for the commission and the facilities for its initial meeting.

SECTION 4: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Louisiana Data Base Commission in implementing the provisions of this Order.

SECTION 5: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 29th day of August, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9710#003

EXECUTIVE ORDER 97-36

Electronic Benefits Transfer Program Task Force

WHEREAS: R.S. 46:450.1 authorizes the Office of Family Support, Department of Social Services to develop and implement an electronic issuance system for the authorization and distribution of benefits and services that are provided by public entitlement programs, including the food stamp program and the aid to families and dependant children cash benefit program;

WHEREAS: the Office of Family Support contracted with an electronic benefits transfer provider, Deluxe Data Systems, Inc., to create and implement an electronic issuance system, known as the Electronic Benefits Transfer Program (hereafter "EBT Program"), that includes plastic cards for program clients, training for department personnel, and instruction in proper use of the electronic issuance system for clients, merchants, and all other program participants;

WHEREAS: the Louisiana Legislature enacted Act 1483 of the 1997 Regular Legislative Session in response to the concerns of participating merchants who voiced their objections to the unanticipated additional costs and administrative burdens which result when the merchant interfaces with the electronic benefits transfer provider;

WHEREAS: the State of Louisiana has a duty to make sure that the clients of the Office of Family Support are being well served and that the merchants participating in the EBT Program are being treated fairly; and

WHEREAS: the interests of citizens of the State of Louisiana would be best served if an independent body were created for the purpose of providing the Governor objective advice regarding the various administrative components of the EBT Program and its potential problems, especially as to any negative impact that the EBT Program may have on participating merchants;

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

SECTION 1: The Electronic Benefits Transfer Program Task Force (hereafter "task force") is established within the Executive Department, Office of the Governor.

SECTION 2: The duties of the task force shall include, but are not limited to, the following:

A. preparing a preliminary report, due by October 15, 1997, which identifies all potential problems associated with electronic benefit transfers and the EBT Program, including those which could occur as a result of misuse or when interfacing occurs between the provider, the clients, and the merchants participating in the program;

B. conducting in-depth studies of, and compiling information on, electronic authorization and distribution of public entitlement benefit services;

C. preparing a comprehensive report, due by February 1, 1998, that is based on compiled data and the results of the in-depth studies referred to in Section 2(B), which addresses all matters associated with the EBT Program, including the impact of the program on the clients and

merchants participating in the program and the need for uniform statewide regulation of electronic benefit transfers and card usage; and

D. preparing draft legislation, rules, and/or regulations which facilitate the proper implementation of the EBT Program.

SECTION 3: The task force shall be composed of at least seven members appointed by and serving at the pleasure of the Governor. The membership of the task force shall be selected as follows:

A. the chief of staff, Office of the Governor, or the chief of staff's designee;

B. the secretary of the Department of Social Services;

C. the commissioner of Administration, or the commissioner's designee;

D. the assistant secretary of the Department of Social Services, Office of Family Support;

E. the state treasurer, Department of Treasury, or the treasurer's designee; and

F. two representatives of the Louisiana Retailers Association.

SECTION 4: The secretary of the Department of Social Services shall chair the task force. The membership of the task force shall elect all other officers.

SECTION 5: The task force shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 6: Support staff for the task force and facilities for its meetings shall be provided by the Department of Social Services.

SECTION 7: Task Force members shall not receive compensation or a per diem. Nonetheless, contingent upon the availability of funds, a member who is not an employee of the State of Louisiana or one of its political subdivisions, or an elected statewide official, may receive reimbursement from the Office of the Governor for actual travel expenses incurred, in accordance with state guidelines and procedures, and upon the approval of the commissioner of administration.

SECTION 8: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the task force in implementing the provisions of this Order.

SECTION 9: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 8th day of September, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9710#004

EXECUTIVE ORDER 97-37

Children's Health Insurance Program Task Force

WHEREAS: pursuant to R.S. 36:251(B), the Department of Health and Hospitals is responsible for the development and provision of health and medical services for the prevention of disease for the citizens of the State of Louisiana, including the uninsured and medically indigent;

WHEREAS: the Department of Health and Hospitals has historically managed and operated health care programs for children for the State of Louisiana, including Medicaid (KID MED); Children's Special Health Services; Women's, Infants and Children's (WIC) Supplemental Food Program; School and Adolescent Health; Immunizations; Maternal and Child Health; Developmental Disability Early Intervention; Alcohol and Drug Abuse Prevention; and Children's Mental Health Services;

WHEREAS: in order to provide funding to the states to enable them to initiate and expand children's health assistance for uninsured, low income children in an effective and efficient manner that is coordinated with other sources of health benefits coverage for children, Congress amended the Social Security Act, 42 U.S.C.A. §1395, et seq., in 1997 to enact the State Children's Health Insurance Program, a part of the Balanced Budget Act, 111 Stat. 251, P.L. 105-33;

WHEREAS: R.S. 36:254(A)(6) authorizes the secretary of the Department of Health and Hospitals to act as the sole agent of the State of Louisiana "to cooperate with the federal government and with other state and local agencies in matters of mutual concern and in the administration of federal funds granted to the state or directly to the department or an office thereof to aid in the furtherance of any function of the department or its offices"; and

WHEREAS: in establishing the State of Louisiana's Children's Health Insurance Program and coordinating it with the other state health care programs for children, the secretary of the Department of Health and Hospitals would benefit from the advice of a task force composed of the leadership of various state agencies and the Louisiana Legislature so as to utilize their accumulated expertise and knowledge on children's health care and insurance issues;

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

SECTION 1: The Children's Health Insurance Program Task Force (hereafter "task force") is established within the Executive Department, Department of Health and Hospitals.

SECTION 2: The primary duty of the task force shall be to advise the secretary of Department of Health and Hospitals regarding the various options available for a Children's Health Insurance Program, as authorized by the Balanced Budget Act, 111 Stat. 251, P.L. 105-33, including, but not limited to, the following:

- A. expanding Medicaid coverage for children who are near or below poverty level; and
- B. exploring the feasibility of a pilot project providing private and/or school-based health insurance to children

whose parents can afford either:

- 1. payment/partial payment of the insurance premium; or
- 2. minimal co-payments.

SECTION 3: The task force shall be composed of fifteen members appointed by and serving at the pleasure of the Governor. The membership of the task force shall be selected as follows:

- A. the secretary of the Department of Health and Hospitals, or the secretary's designee;
- B. the commissioner of Administration, or the commissioner's designee;
- C. the commissioner of Insurance, or the commissioner's designee;
- D. the chancellor of the Louisiana State University Medical Center, or the chancellor's designee;
- E. the speaker of the House of Representatives, or the speaker's designee;
- F. the president of the Senate, or the president's designee;
- G. the chair of the Senate Health and Welfare Committee, or the chair's designee selected from the membership of the committee;
- H. the chair of the House of Health and Welfare Committee, or the chair's designee selected from the membership of the committee;
- I. the chair of the Senate Finance Committee, or the chair's designee selected from the membership of the committee;
- J. the chair of the House Appropriations Committee, or the chair's designee selected from the membership of the committee;
- K. the chair of the Senate Insurance Committee, or the chair's designee selected from the membership of the committee;
- L. the chair of the House Insurance Committee, or the chair's designee selected from the membership of the committee;
- M. the medical director of the Department of Health and Hospitals;
- N. the chief of staff, Office of the Governor, or the chief of staff's designee; and
- O. the executive director of the Children's Cabinet, Office of the Governor, or the executive director's designee.

SECTION 4: The Governor shall select the chair of the task force from its membership.

SECTION 5: Support staff for the task force and facilities for its meetings shall be provided by the Department of Health and Hospitals.

SECTION 6: Task force members shall not receive compensation, a per diem, or travel expenses from the Department of Health and Hospitals or the Office of the Governor.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state, or any political subdivisions thereof, are authorized and directed to cooperate with the task force in implementing the provisions of this Order.

SECTION 8: This Order is effective upon signature and

shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 16th day of September, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9710#005

EXECUTIVE ORDER 97-38

Interstate 49 South Project Task Force

WHEREAS: U.S. Highway 90 (hereafter "U.S. 90") is one of the state of Louisiana's major links to the Gulf of Mexico, and a main corridor for access to oil and gas operations in the central gulf's outer continental shelf, petrochemical industries along the Mississippi River, and waterborne freight en route to the central United States;

WHEREAS: over 36 percent of the population of the State of Louisiana resides in the vicinity of U.S. 90 between Interstate 10 (hereafter "I-10") in Lafayette and the Westbank Expressway in New Orleans; as a consequence, the four-laned highway is the primary hurricane evacuation route for South Louisiana;

WHEREAS: it is a priority for the State of Louisiana to prepare for the twenty-first century by promoting economic growth and development through the provisions of a transportation system adequate to support new economic activity with its increase in traffic volume, encourage international and domestic commerce, promote tourism, and improve public safety; and

WHEREAS: the interests of the citizens of the State of Louisiana would be best served by the creation of a task force to analyze the feasibility of upgrading U.S. 90 into an interstate and evaluate the impact it would have on the general populace of the state, particularly those living in South Louisiana;

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

SECTION 1: The Interstate 49 South Project Task Force (hereafter "task force") is established within the Executive Department, Office of the Governor.

SECTION 2: The primary duty of the task force shall be to submit to the Governor, by April 1, 1998, a comprehensive report which includes research, analyses, and recommendations addressing the following nonexclusive list of issues:

A. the feasibility of upgrading into an interstate all or a part of U.S. 90 between the Westbank Expressway in New

Orleans and I-10 in Lafayette (hereafter "I-49 South Project") for the creation of an Interstate 49 South;

B. the availability and/or viability of sources of funding for the I-49 South Project, including innovative financing alternatives; and

C. the documented level of support for the I-49 South Project by:

1. the citizens of the State of Louisiana living in the various geographical sections of the State of Louisiana;

2. the Metropolitan Planning Organizations in the areas surrounding U.S. 90 between I-10 in Lafayette and the Westbank Expressway in New Orleans; and

3. the members of the Louisiana Legislature.

SECTION 3: The secondary duty of the task force shall be to prepare documentation, suitable for submission to the members of the State of Louisiana's United States Congressional Delegation, which documents the reasons for the United States Congress to designate U.S. 90, between the Westbank Expressway in New Orleans and I-10 in Lafayette, as an interstate route through South Louisiana.

SECTION 4: The task force shall be composed of at least 20 members appointed by and serving at the pleasure of the Governor. The membership of the task force shall be selected as follows:

A. the chief of staff, Office of the Governor, or the chief of staff's designee;

B. the secretary of the Department of Transportation and Development, or the secretary's designee;

C. the chair of the Transportation, Highways, and Public Works Committee, Louisiana House of Representatives, or the chair's designee;

D. the chair of the Transportation, Highways, and Public Works Committee, Louisiana Senate, or the chair's designee;

E. the federal highway administrator for the State of Louisiana, or the federal highway administrator's designee;

F. representatives from communities located along the span of U.S. 90 between the Westbank Expressway in New Orleans and I-10 in Lafayette;

G. representatives of businesses in South Louisiana;

H. representatives of the Lafayette, Houma, and New Orleans Metropolitan Planning Organizations; and

I. an at-large member.

SECTION 5: The Governor shall appoint the chair from the membership of the task force. All other officers shall be elected by the task force.

SECTION 6: Support staff for the task force and facilities for their meetings shall be provided by the Department of Transportation and Development.

SECTION 7: Task force members shall not receive compensation or a per diem from the Office of the Governor or the Department of Transportation and Development. Nonetheless, contingent upon the availability of funds, a member who is not an elected official or an employee of the federal government may receive reimbursement from the Office of the Governor for actual travel expenses incurred, in accordance with state guidelines and procedures, and upon the approval of the commissioner of administration.

SECTION 8: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision

thereof, are authorized and directed to cooperate with the task force in implementing the provisions of the Order.

SECTION 9: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 18th day of September, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9710#006

EXECUTIVE ORDER MJF 97-39

State Customer Service Standard

WHEREAS: it is the duty of the State of Louisiana to timely deliver government customer services that are of the highest quality and responsive to the public's needs;

WHEREAS: the State of Louisiana intends to achieve higher levels of citizen satisfaction by delivering quality, timely, and responsive government services which meet its customer service obligations;

WHEREAS: to enable the State of Louisiana to meet its goal of providing a superior level of customer service, all levels of state government employees could benefit from a statewide employee customer service training program that identifies customer expectations and assists state government employees in satisfying those expectations;

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

SECTION 1: State Customer Service Standard. All departments and agencies in the Executive Branch, State of Louisiana, and all officers and employees thereof (hereafter "state agencies") shall strive to deliver to the individuals and entities they serve effective, efficient, and responsive customer service that is of the highest quality.

SECTION 2: Implementation of Standard. In implementing the state customer service standard, all state agencies that serve the public directly shall perform the following nonexclusive list of duties:

- A. identify all of the services provided by the state agency;
- B. identify the customers who are, and should be, served by the state agency;
- C. determine the service expectations of those customers;
- D. determine the present level of satisfaction those customers have with the services of the state agency;
- E. compare the state agency's present customer service

performance to the level of customer service presently being delivered to customers by other governmental and/or nongovernmental entities that are models of successful customer service;

F. disseminate customer service information to the public and make available a user-friendly customer service improvement system; and

G. develop an internal structure that effectively addresses customer complaints and prevents future customer service dissatisfaction.

SECTION 3: Support for State Government Employees. Each state agency shall work with its employees to develop a state employee plan that will compliment the state agency's customer service strategy. Each plan shall describe the customer service training resources and programs being provided by the state agency for its employees who are directly serving customers and for the managers of those employees. The plan should identify the types of training resources and programs that would improve the state agency's customer service levels, indicate how those training resources and programs would improve the level of the state agency's customer service, and provide a strategy which indicates how those training resources and programs will be provided.

The state employee plan shall also include the following information:

A. a detailed explanation of employee expectations and needs regarding the manner in which the state customer service standard is implemented;

B. a detailed list of employee ideas for improving the level of customer satisfaction and attaining the state customer service standard; and

C. indicate types of customer service training that is necessary to provide employees with the essential tools to deliver goods and services at the level that meets customer service standard.

SECTION 4: Annual Customer Service Plan. Beginning with the fiscal year commencing July 1, 1998, each state agency shall implement an annual customer service plan. The state agency shall develop its initial plan and submit it to the Office of the Governor, through the commissioner of Administration, by November 1, 1998. The state agency shall develop and submit an annual update by November 1 of each successive year.

The state agency's annual customer service plan shall include the state agency's customer service goals for complying with the state customer service standard that is specifically tailored to the particular service provided by the state agency. Each plan shall identify and describe the level of customer service being delivered to customers by relevant, successful governmental or nongovernmental agencies, and present a comparative evaluation of the difference in quality of the customer service provided by the state agency and by relevant, successful governmental or nongovernmental agencies. If the level of quality of the state agency's customer service is not equivalent to, or better than, the level of the relevant, successful governmental or nongovernmental agency customer service, the state agency shall explain the reason for the disparity in the customer service quality, and the action being taken to rectify the situation.

SECTION 5: Annual Customer Service Assessment. Beginning with December 1998, at the end of every calendar year, each state agency shall implement an annual customer service assessment that elicits from customers and employees information regarding:

- A. changes in customer needs and expectations;
- B. the level of overall customer satisfaction with the state agency's service; and
- C. suggestions for improvement.

This information shall be used by the state agency in measuring its overall performance level, the effectiveness of its leadership, and in allocating its resources.

SECTION 6: Miscellaneous Provisions. This Order shall not and does not create any right of action, any cause of action, or any substantive, procedural, or equitable right enforceable by, or in favor of, any person or entity against the State of Louisiana or any department, commission, board, agency, political subdivision, or officer or employee thereof.

All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the implementation of the provisions of this Order.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 23rd of September, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of the State
9710#007

EXECUTIVE ORDER MJF 97-40

Bond Allocation—Louisiana Public Facilities Authority

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1997 (hereafter "the 1997 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1997 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS: the Louisiana Public Facilities Authority has requested an allocation from the 1997 Ceiling to be used

in connection with the financing of the acquisition, construction, and equipping of a structural and miscellaneous steel fabrication facility to be located on Highway 43, City of Greensburg, Parish of St. Helena, in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended:

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1997 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$1,900,000	Louisiana Public Facilities Authority	Southland Steel Fabricators, Inc.

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 29, 1997.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the *Internal Revenue Code of 1986*, as amended.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 29th day of September, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9710#024

EXECUTIVE ORDER MJF 97-41

**Bond Allocation—Industrial
Development Board of the City of DeRidder**

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1997 (hereafter "the 1997 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1997 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS: the Industrial Development Board of the City of DeRidder has requested an allocation from the 1997 Ceiling to be used in connection with the financing of the acquisition, construction, installation, renovation, and equipping of a manufacturing facility for the use of fabricating equipment for chemicals and refinery plants, in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1997 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$3,500,000	Industrial Development Board of the City of DeRidder	Pax, Inc.

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 29, 1997.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the *Internal Revenue Code of 1986*, as amended.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 29th day of September, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9710#025

EXECUTIVE ORDER MJF 97-42

Maritime Advisory Task Force

WHEREAS: the State of Louisiana is our nation's leading marine transportation state;

WHEREAS: the maritime industry is a major contributor to the State of Louisiana's present economic well-being and to its future economic outlook as 95,000 jobs are directly or indirectly dependent on the industry;

WHEREAS: Forty-four of the 64 parishes in the State of Louisiana border on navigable waterways;

WHEREAS: the State of Louisiana intends to increase its competitiveness in global markets through the ever evolving maritime industry;

WHEREAS: the best interests of the citizens of the State of Louisiana can be served by an advisory task force, composed of maritime industry representatives, that is created to recommend methods of promoting and protecting Louisiana's maritime industry and increasing the state's competitiveness in global maritime markets;

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

SECTION 1: The Maritime Advisory Task Force (hereafter "task force") is established within the Executive Department, Office of the Governor.

SECTION 2: The duties of the task force shall include, but are not limited to, the following:

A. recommending legislation that is designed to enhance and protect the economic viability of Louisiana's maritime industry;

B. recommending economic development programs which are designed to foster and promote growth in Louisiana's maritime industry;

C. suggesting means to enhance the competitiveness of Louisiana's maritime industry in national and international markets; and

D. evaluating maritime industry safety concerns and recommending safety measures that would benefit both the general population and Louisiana's maritime industry.

SECTION 3: The task force shall be composed of 15 members appointed by, and serving at the pleasure of, the Governor. The membership of the task force shall be selected as follows:

A. the chief of staff, Office of the Governor, or the chief of staff's designee;

B. the secretary of the Department of Economic Development, or the secretary's designee;

C. the chair of the Transportation, Highways, and Public Works Committee, Louisiana House of Representatives, or the chair's designee;

D. the chair of the Transportation, Highways, and Public Works Committee, Louisiana Senate, or the chair's designee;

E. a representative of the shallow draft maritime industry;

F. a representative of the deep draft maritime industry;

G. a representative of the shipyard industry;

H. a representative of the ports on the Mississippi River;

I. a representative of the ports on the Gulf/Intracoastal Canal;

J. a representative of the ports on the Red River;

K. a ship pilot commissioned by the State of Louisiana;

L. a representative of passenger vessels;

M. a representative of the offshore supply industry;

N. a representative of the fleeting industry; and

O. a representative of the United States Coast Guard.

SECTION 4: The Governor shall select the chair of the task force from its membership. The membership of the task force shall elect all other officers.

SECTION 5: The task force shall meet biannually and at the call of the chair.

SECTION 6: Support staff for the task force and facilities for its meetings shall be provided by the Department of Economic Development.

SECTION 7: The task force shall submit its initial report to the Governor that addresses the issues described in Section 2, no later than October 31, 1998. The task force shall update the report annually.

SECTION 8: Task Force members shall not receive compensation or a per diem. Nonetheless, contingent upon the availability of funds, a member who is not an employee of the State of Louisiana or one of its political subdivisions, or a state-wide elected official, may receive reimbursement from the Office of the Governor for actual travel expenses incurred, in accordance with state guidelines and procedures, and upon the approval of the commissioner of administration.

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 6th day of October, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9710#050

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk, and Farm-Raised White-Tailed Deer (LAC 7:XXI.1501-1523)

Editor's Note: All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

The commissioner of Agriculture and Forestry, on September 3, 1997, issued emergency rules regulating the raising, slaughtering and sale of imported exotic deer and antelope, elk, and farm-raised white-tailed deer for commercial purposes in the state of Louisiana. The commissioner of Agriculture and Forestry has previously determined that there is an imminent peril to the health, safety, and welfare of the citizens of Louisiana and to the agricultural livestock industry in Louisiana, including the alternative livestock industry. The commissioner of Agriculture and Forestry determined that without effective regulations in place, diseased or contaminated animals may be brought into the state of Louisiana or slaughtered and sold as food to be consumed by Louisiana citizens.

Louisiana is certified by the United States Department of Agriculture (USDA) as a tuberculosis- and brucellosis-free state; and the introduction of any imported exotic deer and antelope, elk, and farm-raised white-tailed deer infected with either of these diseases or other diseases will subject Louisiana cattle and other livestock, including alternative livestock, to infection.

The commissioner of Agriculture and Forestry further determined that any infection of cattle or other livestock will cause the owner of such livestock to lose the commercial value of such animals; and introduction of these diseases into the state would jeopardize Louisiana's certification from the USDA and the loss of the commercial value of livestock; and the effect on the agricultural livestock industry, including alternative livestock, would cause a substantial adverse economic impact on the agricultural economy of this state. The commissioner of Agriculture and Forestry adopted emergency regulations on September 3, 1997 addressing the emergency as stated above.

For the reasons stated, the commissioner of Agriculture and Forestry, in accordance with the Administrative Procedure Act, specifically R.S. 49:953(B), and R.S. 3:3101, hereby adopts the following amended emergency rules regulating the raising, slaughtering and sale of imported exotic deer and

antelope, elk and farm-raised white-tailed deer for commercial purposes in the state of Louisiana. These emergency rules are effective October 2, 1997 and supersede, in their entirety, the emergency regulations adopted on September 3, 1997. These rules shall remain in effect 120 days or until the final rules become effective, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 15. Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk, and Farm-Raised White-Tailed Deer

§1501. Statement of Authority and Purpose

The commissioner of Agriculture and Forestry heads and directs the Department of Agriculture and Forestry and exercises all functions of the state relating to the promotion, protection, and advancement of agriculture and forestry. The commissioner is authorized by law and does hereby adopt these rules and regulations for the purposes of promoting, protecting, and advancing agriculture and to implement the laws adopted by the legislature, including those in Part I of Chapter 19-A of Title 3 of the Revised Statutes, giving the commissioner the specific power to regulate farm-raised exotic animals, including imported exotic deer and imported exotic antelope, elk, and farm-raised white-tailed deer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§1503. Definitions

For purposes of these rules and regulations the following words and phrases shall have the meaning given herein:

Alternative Livestock—any imported exotic deer and imported exotic antelope, elk, and farm-raised white-tailed deer.

Commercial Purpose—the keeping, breeding, raising, containing, harvesting, killing, slaughtering, buying, selling, trading, or transferring ownership of alternative livestock, any alternative livestock carcass or part thereof, with the intent to receive money, goods, services, livestock or any other type of compensation in connection therewith.

Commissioner—The commissioner of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

Elk—any animal of the species and genus *Cervus canadensis*.

Farm—any area of land or water, regardless of size, used to breed, raise, or keep farm-raised alternative livestock for a commercial purpose, including but not limited to, breeding farms or propagating preserves. This definition does not include areas of land or water which are part of a zoo, game park, or wildlife exhibit, where their primary purpose is the exhibition of alternative livestock or other animals.

Farm-Raised—any alternative livestock born, raised, or kept within a closed circumscribed fenced area for a commercial purpose. This definition does not include alternative livestock which are part of a zoo, game park, or wildlife exhibit, where their primary purpose is the exhibition of alternative livestock or other animals.

Farm-Raised White-Tailed Deer—any animal of species and genus *Odocoileus virginianus* which is bred, born, raised and/or kept within a closed circumscribed fenced area for the purpose of buying, selling, or trading in commerce. Farm-raised white-tailed deer does not include any white-tailed deer which is part of any zoo, game park, or wildlife exhibit, where their primary purpose of the same is the exhibition of white-tailed deer and/or other animals.

Harvesting—the attempt or act of shooting, wounding, or killing farm-raised alternative livestock within the enclosure system of a farm in a manner consistent with those techniques commonly referred to as hunting in Title 56 of the Louisiana Revised Statutes.

Imported Exotic Antelope—any animal of the family *Bovidae* which is not indigenous to North America, except animals of the tribes *Bovine* (cattle) and *Caprine* (sheep and goats).

Imported Exotic Deer—any animal of the family *Cervidae* which is not indigenous to North America, including, but not limited to, red deer, seika deer and fallow deer.

LDWF—the Louisiana Department of Wildlife and Fisheries.

Person—any individual, corporation, partnership, or other legal entity.

Quarantine—the requirement, resulting from an order of the department or the State Veterinarian's Office, to secure and physically isolate an animal or animals in a specified confined area to prevent the spread of contagious disease.

White-Tailed Deer—any animal of the species and genus *Odocoileus virginianus*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§1505. Issuance of Farm-Raising License; Renewals

A. Any person who keeps, breeds, raises, contains, harvests, kills, slaughters, buys, sells, trades, or transfers ownership of any type of farm-raised alternative livestock for commercial purposes shall obtain a farm-raising license from the department prior to engaging in such activity.

B. The department shall not issue any farm-raising license until the application for the farm-raising license and the information requested, including the required plan for the operation of the farm, is approved by the department and the proposed farm passes the department's and LDWF's inspection.

C. Any changes in any information submitted in the original application occurring during or after the application process shall be submitted in writing to the department. The department and LDWF must approve, in writing, any change or modification, which shall be in writing, in the written farm operation plan submitted with the original application, before such change or modification may go into effect.

D. A farm-raising license shall be valid for the period beginning with the date of issuance and ending the following June 30 or from July 1 of the year of renewal through the following June 30.

E. A farm-raising license may be renewed each year by the department. A licensee shall submit a written request for renewal, the renewal fee, any proposed modification, which shall be in writing, of the written farm operation plan previously submitted to and approved by the department, and any proof requested by the department of compliance by the licensee with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, and any quarantine. If either the written request for renewal or the renewal fee is received by the department after July 31, the farm-raising license shall be deemed expired, *ipso facto*, retroactive to June 30.

F. In the event that the department determines that a farm does not meet the requirements of or was not complying with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine, the farm-raising license may not be renewed by the department.

G. The licensee may contest the department's decision not to renew a farm-raising license by filing a written request for an adjudicatory hearing with the department within 15 days from receipt of the notice of nonrenewal. Such a hearing is to be held in accordance with the provisions of the Administrative Procedure Act. Any such hearing shall be held within 30 days of the request, unless continued for good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§1507. Fees

A. Farm-Raising License Fees

1. The fee for a new farm-raising license shall be \$50.
2. The farm-raising license renewal fee shall be \$50.
3. The department shall waive the farm-raising license fee for any person who obtains a farm-raising license from this department, and who holds a valid game breeders license issued by LDWF for the possession of any alternative livestock at the time these rules and regulations become effective, and who submits a written application within the calendar year that these rules and regulations become effective.
4. The waiver granted in §1507.A.3 applies only to a new farm-raising license and shall not apply to any renewal of a farm-raising license issued by the department under these rules and regulations.

B. Harvesting Permit Fee

1. Each individual intending to harvest or kill any farm-raised alternative livestock at any farm licensed by the department shall obtain a harvesting permit from LDWF, before harvesting or killing any farm-raised alternative livestock, except as provided by §1507.B.3.
2. The fee due to the department for each harvesting permit shall be \$50, which fee shall be ministerially collected

by LDWF, who shall promptly remit the fee to the department, retaining one-half for administrative costs.

3. No licensee or those persons employed by or assisting such licensee harvesting farm-raised alternative livestock to be taken directly to a state- or federally-approved slaughter facility or capturing farm-raised alternative livestock to be sold or traded for breeding or stocking purposes shall be required to obtain a harvesting permit or pay a fee.

C. Farm-Raised Alternative Livestock Tag Fee

1. Each farm-raised alternative livestock harvested or killed shall have a farm-raised tag attached to the left ear or left antler of the carcass at the time of kill and the tag shall remain with the carcass at all times, except as provided in §1507.C.3.

2. The farm-raised alternative livestock tag shall be provided by the department at a cost of \$5 per tag.

3. No farm-raised tag shall be required for farm-raised alternative livestock which are to be taken directly to a state- or federally-approved slaughter facility or which are sold or traded alive for breeding or stocking purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§1509. Farm-Raising Licensing Requirements

A. Written Application. Each applicant for a farm-raising license shall submit a completed written application on a form supplied by the department. In addition to any other information that may be requested by the department, the applicant shall provide the following information:

1. name, physical address, mailing address and telephone number of the applicant and whether the applicant will own or lease the land. If the land is leased, then a copy of the lease shall be provided to the department;

2. the name under which the business will operate, the physical address, mailing address, and telephone number of the business, if different than the information provided in §1509.A.1;

3. the business structure, (sole proprietorship, partnership, corporation, limited liability company, joint venture, or otherwise);

4. the name of the person or persons in charge, position (e.g., owner, manager, etc.), residence address and phone number;

5. the physical location and size of the farm;

6. a topographical map of the farm if 50 acres or more;

7. the species of alternative livestock to be farm-raised;

8. the approximate number of animals to be farm-raised;

9. the complete plan for the operation of the farm including:

a. an enclosure system, including fencing the farm, indicating the location, size, nature and extent of the fencing material and of any right-of-way related to the farm property;

b. systematic inspection of the enclosure system, including the fence, maintenance, repair and replacement of the fence, keeping the fence and any clearance along either side of the fence clear, and verification to the department of compliance with this provision;

c. the capture of any farm-raised alternative livestock that may escape from or wild white-tailed deer that may enter the farm through a breach or opening in the enclosure system or fence;

d. removal of white-tailed deer from the farm prior to completion of the enclosure of the farm;

e. controlling farm-raised alternative livestock population;

f. identification by means of an electronic implant of all white-tailed deer born, bought, sold, traded or which otherwise become farm-raised white-tailed deer, which shall include the systematic capture of farm-raised white-tailed deer for implantation purposes;

g. the removal and disposal of all alternative livestock in the event that the farm ceases operation for any reason or upon revocation or nonrenewal of the farm-raising license, including a provision for written notice to the department prior to cessation of farming operation;

h. the type of farming operation records that will be kept;

10. a statement that the applicant shall abide by the requirements of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, and any quarantine;

11. a certified statement that all representations contained in the application, the farm operation plan and attachments are true and correct.

B. Farm Inspection. An applicant shall have the proposed farm physically inspected and approved by the department and LDWF before a farm-raising license may be issued by the department. To obtain department approval a proposed farm shall:

1. be located in a rural area of the state;

2. be securely enclosed by an enclosure system, including fencing, that meets the following specifications:

a. a minimum height, above the relevant ground, of 8 feet;

b. enclose an area of not less than 150 acres nor more than 2,500 acres unless good cause is shown by the applicant why an enclosure of a different size is not inconsistent with the intent of Part 1 of Chapter 19-A of Title 3 of the Revised Statutes;

c. a minimum gauge wire of 12½;

d. fencing material of chain link, woven wire, solid panel or welded panel or, if made with any other material, approved in writing by the department; however, welded wire fence shall not be used unless it was approved by LDWF and installed prior to April 22, 1997, but such welded wire fences, when replaced or partially replaced, shall be replaced by fencing required by these rules and regulations;

3. have drainage sufficient to leave a majority of the farm free from extended periods of standing water;

4. have adequate space; and, if the total enclosed area of the farm is less than 50 acres, allow at least 5,000 square feet for the first elk or farm-raised white-tailed deer placed on the farm and at least 2,500 square feet for each subsequent elk or farm-raised white-tailed deer;

5. have no condition which may cause noncompliance with or substantial difficulty in complying with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine;

6. not be subject to an objection for good cause related to wildlife, made in writing to the department by LDWF, which written objection shall follow within 10 working days of a physical inspection of the proposed farm made concurrently and jointly by the department and LDWF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§1511. Grounds for Refusal to Issue or Renew a Farm-Raising License

The commissioner may refuse to issue or renew a farm-raising license for any of the following circumstances:

1. the applicant cannot demonstrate to the satisfaction of the commissioner a competency to operate an alternative livestock farm;

2. the applicant has failed to provide all of the information required in or with the farm-raising license or renewal application, or has provided false information to the department;

3. the applicant has previously refused to permit the department to inspect the farm or to inspect farm records; or the applicant has otherwise failed to comply with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine;

4. the department does not approve the farm operation plan;

5. the proposed farm does not pass the department's or LDWF's inspection;

6. the applicant has previously been found in violation of either Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§1513. Obligations of the Farm-Raising Licensee

A. Identification of Farm-Raised Alternative Livestock

1. All farm-raised white-tailed deer shall be identified by means of an electronic implant implanted as follows:

a. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear or in either shoulder;

b. all farm-raised white-tailed deer being brought into Louisiana shall have the electronic implant implanted before entering this state and prior to being released on the farm;

c. farm-raised white-tailed deer born in this state shall have an electronic implant implanted the first time the farm-raised white-tailed deer is captured alive and before the farm-raised white-tailed deer leaves the farm;

d. all white-tailed deer shall be electronically implanted at the base of the left ear immediately upon harvest

whether or not such deer have already been implanted previously. This requirement for electronic implantation is in addition to any and all other requirements for electronic implantation contained in these regulations. This electronic implantation shall remain with the carcass at all times;

e. each electronic implant code shall be listed on the farm-raised white-tailed deer's health certificate and on the bill of sale or certificate of transfer.

2. All farm-raised alternative livestock other than farm-raised white-tailed deer shall be permanently and individually identified as follows:

a. by means of an electronic implant or by a permanent ear tattoo and ear tag;

b. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear or in either shoulder;

c. prior to entering the state, alternative livestock, other than farm-raised white-tailed deer, shall be identified as required herein;

d. alternative livestock born in this state, other than farm-raised white-tailed deer, shall be identified, as required herein, the first time any such animal is captured alive and before any such animal leaves the farm;

e. the identification number or electronic implant code, and the location thereof shall be listed on the health certificate and the bill of sale or certificate of transfer.

3. Farm-raised alternative livestock, other than farm-raised white-tailed deer, that will be transported directly to a state- or federally-approved slaughter facility are exempt from this identification requirement.

4. Farm-raised alternative livestock placed on a farm prior to the effective date of these regulations, other than farm-raised white-tailed deer, are not required to be identified by a permanent ear tattoo and ear tag or electronic implant unless removed alive from the farm.

B. Record Keeping

1. Each licensee shall maintain records, for no less than 36 months, of all sales, deaths, kills, trades, purchases, or transfers of any farm-raised alternative livestock. The records shall include:

a. the total number of farm-raised alternative livestock, carcasses, or parts thereof, killed, sold, traded, purchased or transported;

b. the name and address of the person to whom each farm-raised alternative livestock, or any carcass or parts thereof, was sold, traded, delivered, presented or transported;

c. the electronic implant code or identification number of the farm-raised alternative livestock;

d. copies of any health certificates issued;

e. accurate records showing all inspections, maintenance, repairs and replacement to the enclosure system, including the fence; and such records shall include the dates and times of each, names of the persons performing services, the location of any breaches of the enclosure system, including the fence, and the nature and location of any repairs or replacements made to the fence;

f. records customarily kept in the normal course of conducting business and those records required by these rules and regulations.

2. Sellers, traders or transferors of farm-raised alternative livestock, any carcass or any part thereof, shall furnish the purchaser or transferee with a bill of sale or letter of transfer as verification of the farm-raised status.

3. The furnishing of any false information shall be a violation of these rules and regulations.

C. Enclosure System and Fence Inspection and Maintenance

1. Any licensee shall conduct or shall have conducted a visual ground inspection of the enclosure system, including the fence, along the entire perimeter of the fenced area of the farm no less than weekly. An inspection shall be conducted immediately after any major storm or occurrence of any other force of nature that would cause a reasonable person to be concerned about the integrity of the enclosure system, including the fence.

2. Any licensee shall maintain the enclosure system, including the fence, in good repair at all times. Good repair means that farm-raised alternative livestock are not able to leave and wild white-tailed deer are not able to enter through the enclosure system, including the fence, or otherwise.

3. Any licensee who discovers a breach or opening in the enclosure system or fence that would allow farm-raised alternative livestock to leave from or wild white-tailed deer to enter into the enclosed area shall notify the department and LDWF, orally and in writing, of the breach or opening; and the department shall notify LDWF within 12 hours.

4. In the event of such a breach or opening the licensee shall immediately close the breach or opening and make all reasonable efforts to determine if farm-raised alternative livestock left from or wild white-tailed deer entered into the area enclosed by the fence.

D. Other Obligations of the Farm Licensee

1. A licensee shall remove white-tailed deer from the farm prior to completion of the fencing and enclosure system of the farm. Removal of the white-tailed deer shall be accomplished to the satisfaction of the department and LDWF pursuant to these regulations.

2. A licensee shall control the population of farm-raised alternative livestock on the farm.

3. A licensee shall make all efforts that a reasonable licensee would make to capture any farm-raised alternative livestock that escapes from the fenced area of the farm and to remove wild white-tailed deer that enters the fenced area of the farm.

4. A licensee shall, in writing, notify the department at least 10 days prior to placing any alternative livestock on the farm if such alternative livestock was not listed on the original application or on any modification previously approved, in writing, by the department. The department shall promptly notify LDWF following receipt of licensee's notice.

5. A licensee, upon cessation of operations or upon revocation or nonrenewal of the farm-raising license, shall remove and dispose of all farm-raised alternative livestock on the farm in accordance with the farm operation plan submitted to and approved by the department, or in accordance with specific written instructions issued by the department in the event that circumstances warrant removal and disposal of the farm-raised alternative livestock to be made in a manner different from the farm operation plan.

6. A licensee shall be responsible for ensuring that any individual who harvests or kills any farm-raised alternative livestock on the licensee's farm does so in accordance with these rules and regulations.

7. A licensee shall harvest or kill farm-raised alternative livestock in accordance with these rules and regulations.

8. A licensee shall provide that all farm-raised alternative livestock have the necessary health certificates and that the farm-raised alternative livestock meet all applicable health requirements.

9. A licensee shall allow authorized representatives of the department and authorized representatives of LDWF to inspect the farm at any time; and all books and records at any reasonable time.

10. A licensee shall comply with all provisions of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, and any quarantine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§1515. Health Certificates and Health Requirements

A. Prior to entering Louisiana, all alternative livestock, except those being transported directly to a state- or federally-approved slaughter facility, shall:

1. meet the general health requirements promulgated at LAC 7:XXI.107.

2. have an entry permit number issued by the State Veterinarian's Office no more than 15 days before entry into Louisiana which entry number shall be included on the certificate of veterinary inspection;

3. have written proof of a negative test for brucellosis in accordance with the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* as and when published by the United States Department of Agriculture, Animal and Plant Health Inspection Service. Until such time as the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* are published, all alternative livestock 6 months of age and older entering Louisiana, except those being transported directly to a state- or federally-approved slaughter facility, shall be tested negative for brucellosis within 30 days prior to entry into Louisiana, and written proof thereof shall be provided, unless the alternative livestock originate from a herd which has been officially declared a certified brucellosis-free herd by the state of origin.

4. have written proof of a negative test for tuberculosis in accordance with the *Tuberculosis Eradication in Cervidae Uniform Methods and Rules* as published by the United States Department of Agriculture, Animal and Plant Health Inspection Service.

B. Prior to any person importing any alternative livestock into Louisiana, LDWF shall be provided by the department a copy of the entry permits or other applicable documents which describe the alternative livestock by species, sex, age and place of origin.

C. Any alternative livestock which has been exposed to brucellosis or tuberculosis shall be quarantined and tested for the diseases to which it has been exposed within 60 days of

the date of the quarantine. The quarantine shall remain in effect until removed, in writing, by the State Veterinarian's Office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§1517. Harvesting or Killing of Farm-Raised Alternative Livestock

A. Farm-raised white-tailed deer shall be harvested by killing only from one-half hour before sunrise to one-half hour after sunset during the period of October 1 through January 31 of the following year, as established by the Louisiana Wildlife and Fisheries Commission. Licensees may also harvest at will at any other time from one-half hour before sunrise to one-half hour after sunset upon 48 hours notice to and written approval of the department. Upon receipt of any such notice, the department shall, no later than 24 hours before the harvest, notify LDWF.

B. Except for farm-raised white-tailed deer, farm-raised alternative livestock may be harvested or killed at any time from one-half hour before sunrise to one-half hour after sunset unless the commissioner provides otherwise in accordance with the provisions of §1517.C.

C. The commissioner and Louisiana Wildlife and Fisheries Commission may establish, by written order, other dates and conditions for the harvesting or killing of farm-raised alternative livestock as the commissioner deems necessary to carry out the purposes of Part I of Chapter 19-A of Title 3 of the Revised Statutes. Such orders shall be issued by the commissioner in January of each year or as soon thereafter as is practical and published in the January issue of the *Louisiana Register* or in the first available issue after any such order is issued.

D. Prior to harvesting or killing farm-raised alternative livestock, any person, except as provided by §1507.B.3 of these regulations, shall first apply for and obtain a harvesting permit to do so from LDWF by submitting an application on a form supplied by the department.

1. Any harvesting permit issued by LDWF shall be valid only for the time periods stated on the face of the permit.

2. LDWF may ministerially issue a harvesting permit upon written application by any individual or by any farm licensee making application on behalf of the individual and upon receipt of the harvesting permit fee.

3. The applicant shall not be subject to any existing court or administrative order denying the applicant's right to harvest.

E. Except as provided by §1507.C.3 of these regulations, any farm-raised alternative livestock harvested or killed shall have a farm-raised tag attached to the left ear or left antler of the carcass at the time of the kill, and the tag shall remain with the carcass at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§1519. Prohibitions

A. No farm-raised alternative livestock shall be released into the wild without express written permission from both the

department and LDWF.

B. Farm-raised white-tailed deer meat or farm-raised white-tailed deer parts of any kind shall not be bought, sold, traded, or moved in commerce in any way.

C. Farm-raised alternative livestock sold for slaughter, except farm-raised white-tailed deer, the sale of which is prohibited, shall be handled in accordance with state and federal meat inspection laws and regulations.

D. It is a violation of these regulations to sell, purchase, trade, transport, or otherwise transfer any farm-raised alternative livestock for any purpose other than immediate slaughter at a state- or federally-approved slaughter facility if such farm-raised alternative livestock originates from a herd which is under quarantine for brucellosis or tuberculosis.

E. Failure to comply with any provision of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine is prohibited and each act or omission or each day of a continuing violation shall constitute a separate violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§1521. Enforcement

A. The department's and LDWF's authorized representatives may, at any time, enter and inspect all farms on which farm-raised alternative livestock are located for the purposes of issuing, renewing, or reviewing farm-raising licenses and to insure compliance with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine.

B. Authorized representatives of the department and LDWF may inspect, during any reasonable hours, any records regarding or relating to any farm-raised alternative livestock.

C. Farm-raised alternative livestock which escape from the enclosure system of the farm, if not captured by a licensee within 96 hours of the escape, may be captured by authorized representatives of the department or by any law enforcement agency by whatever means deemed necessary by that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§1523. Penalties

A. The commissioner may suspend or revoke the farm-raising license of any licensee and the harvesting permit issued to any person found guilty of violating Part I of Chapter 19-A of Title 3 of the Revised Statutes, those portions of Title 56 of the Revised Statutes related to wildlife, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine.

B. The commissioner may, in addition to suspending or revoking any farm-raising license or harvesting permit, impose upon any person charged with violating any provisions of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm

operation plan submitted to and approved by the department, or any quarantine, a fine for up to \$100 per violation for each violation of which such person is found guilty.

C. These civil penalties may be assessed only by a ruling of the commissioner based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

D. Any person or licensee subject to an order or decision made pursuant to these regulations may request and receive an adjudicatory hearing before the department to be held in accordance with the Administrative Procedure Act by making written application for same to the department within 15 days of issuance of such order or decision.

E. The commissioner may seek a restraining order, injunctive relief or other relief in a proper court of law to restrain violations of or to compel compliance with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine or to enforce any order or ruling made by him in an adjudicatory proceeding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

Bob Odom
Commissioner

9710#037

DECLARATION OF EMERGENCY

Office of the Governor Crime Victims Reparations Board

Definitions and Awards (LAC 22:XIII.Chapters 1-5)

The following amendments are published in accordance with the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 46:1801 et seq., the Crime Victims Reparations Act, which allows the Crime Victims Reparations Board to promulgate rules necessary to carry out its business or the provision of the Chapter.

The board hereby finds that an emergency exists whereby victims, or the claimants in the case of deceased victims, will suffer an immediate, detrimental loss of compensation of \$190,850 over the next six months necessary to go through rulemaking if these adopted rules are not immediately implemented. These rules remove administrative constraints of the verification of supporting claim documents, add peace officers, firemen, terrorist victims and family members of homicide victims as being eligible for the program, and increase the maximum amount of lost wages/week, medical travel including ambulance charges, medical and funeral awards. Furthermore, the changes would allow for greater flexibility with mental health counseling by permitting an initial evaluation; by raising the maximum amount of

counseling awards; by providing counseling for family members of homicide victims; and by clarifying existing rules relating to treatment plans, peer review, and psychiatric inpatient hospitalization.

In order to prevent additional harm to victims and their families, the board adopts these rules effective October 8, 1997. They shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XIII. Crime Victims Reparations Board

Chapter 1. Authority and Definitions

§103. Definitions

* * *

Intervenor—a person who goes to the aid of another and is killed or injured in the good faith effort to prevent a crime covered by this Chapter, to apprehend a person reasonably suspected of having engaged in such a crime, or to aid a peace officer. "Peace officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, and probation and parole officers.

Pecuniary Loss—amount of expenses reasonably and necessarily incurred by reason of personal injury, as a consequence of death, or a catastrophic property loss, and includes:

a.i. - iii. ...

b. as a consequence of death:

i. - iii. ...

iv. counseling or therapy for any surviving family member of the victim or any person in close relationship to such victim;

v. *pecuniary loss* does not include loss attributable to pain and suffering.

c. - d. ...

* * *

Victim

a. any person who suffers personal injury, death, or catastrophic property loss as a result of a crime committed in this state and covered by this Chapter; or

b. - c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 22:709 (August 1996), LR 23:861 (July 1997), LR 24:

Chapter 5. Awards

§501. Payment of Awards

A. ...

B. Verification of Claimed Expenses

1. Each type of claim form used by the board should identify the documents that must be submitted by the victim/claimant to support and verify a claimed expense.

2. When applications lack documentation necessary for a decision or award in total or in part, and adequate effort has been made to acquire that information, the application will be placed on an agenda and the decision and award will be based

on that information available. Should the formerly sought information become available, a supplemental application can be filed.

C. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), repromulgated LR 22:710 (August 1996), LR 24:

§503. Limits on Awards

A. - B.3. ...

C. Funeral Expenses

1. A maximum cap of \$3,000 for all services exists. This is to cover the costs of the funeral.

2. - 3. ...

4.a. - c. Repealed.

D. Lost Wages/ Earnings

1. - 3.b. ...

4. The board may reimburse loss wages/earnings with a maximum of \$10,000.

a. The board will award up to \$320 per week based on net, after-tax or take home pay.

b. If only gross income is provided, the board will award at 80 percent of gross up to the \$400 per week cap.

5. - 8. ...

9.a. - d. Repealed.

10. - 11. ...

12. Repealed.

E.1. - 3.b. ...

F. Ambulance

1. A maximum cap of \$300 exists for regular ambulance transport. A maximum cap of \$500 exists for air medical transport.

2. - 4. ...

G. Medical Expenses

1. - 2. ...

3. The board will pay only 70 per cent of all outstanding charges after any third-party payment sources up to the statutory limits.

4. - 5. ...

6. Psychiatric Inpatient Hospitalization. It is the opinion of the board that any psychiatric inpatient hospitalization required by a crime victim would be very acute and crisis management in scope. Compensation for such care will require a peer review as described in §503.I.3

a. The board will not reimburse for more than seven days of psychiatric inpatient hospitalization at a cost of no more than \$500 per day. This is intended for an acute hospitalization with the goals of emotional stabilization and placement in outpatient treatment.

b. The board will not reimburse for more than one psychological evaluation (as defined in §503.I.5.).

i. - iii.(c). ...

c. Therapeutic groups outside the per diem charge of the hospital will not be reimbursed.

d. All therapist charges that are outside the per diem charge of the hospital will be limited to no more than one session per day at a rate described in §503.I.8.

e. - f. Repealed.

7. - 11. ...

12.a. - c. Repealed.

H. Travel Expenses. Transportation costs other than the initial ambulance services are reimbursable only when required medical care is not locally available. Certification is required by the physician of record that local medical care is unavailable. Allowable private vehicle mileage for out-of-town travel is reimbursed at the rate published in the current state travel regulation.

I. Mental Health Counseling

1. It is the board's opinion that the majority of those directly victimized by violent crime (e.g., *Primary Victims*) can obtain significant improvement within the first six months of qualified counseling. The board recognizes that short-term crisis management counseling may also be needed for *Secondary Victims* (defined as primary family members or cohabitators of the victim).

2. Mental health services are limited to six months from the date of the first visit or after the first 26 qualified sessions/groups (whichever comes first).

3. Cases which extend beyond the allowable time limit will be subject to a peer review by a psychiatrist or psychologist, licensed by the state of Louisiana, consulting with the board. Peer review will involve an examination of the following:

a. complete progress notes for crime-related conditions(s) being treated;

b. any psychological evaluations/testing pertaining to the crime-related condition;

c. description of prior conditions or treatments;

d. current treatment and treatment response to date; and

e. updated treatment plan.

4. For the life of each case, reimbursable charges may not exceed \$5,000 for Primary Victims and \$2,500 for Secondary Victims. These limits include the cost of all treatment services and psychological evaluations/testing as described in §503.I.8.

5. Psychological evaluation/testing may not exceed \$300. Any evaluation/testing must be conducted by a licensed psychologist and should include the following:

a. description of any structured interview used;

b. description and results of testing administered; and

c. case formulation and DSM-IV diagnoses.

6. Treatment plans completed by the therapist of record (or primary therapist) are required for consideration of mental health expenses. The therapist must show that the psychological condition being treated is a direct result of the crime. Treatment plans must be fully documented in a "problem" and "intervention" format. Detail must be provided for both symptom and intervention. Single word descriptors such as "nightmares" or "supporting counseling" will not suffice. Insufficient treatment plans will be returned to the therapist and the case may be deferred or denied until revised.

7. All payments for services are subject to review and audit by the board.

8. Only physicians, psychiatrists, state-certified or state-licensed psychologists, licensed professional counselors, or board certified social workers are eligible for reimbursement.

The rates for reimbursement shall be:

- a. M.D./Psychiatrists \$75/hour
- b. Ph.D. or Psy.D. Licensed Psychologists \$75/hour
- c. Licensed Professional Counselors \$60/hour
- d. Board Certified Social Worker \$60/hour
- e. Group Therapy Rates (90 minute minimum sessions) \$25/session

9. It is the board's assessment that psychiatric inpatient hospitalization of crime victims is rarely required. If under unusual circumstances such treatment is required, compensation will be subject to a peer review as previously described. Reimbursement for such treatment is limited in amounts and procedures listed under "medical" services.

10. Any claim for injuries sustained may be denied if prescribed or preempted as a matter of law.

11. Repealed.

J. Catastrophic Property Loss

1. - 3. ...

4. Repealed.

K. Vehicular Incidents

1. - 2. ...

3.a. - b. Repealed.

L. Child Care Expenses

1. - 3. ...

4.a. - d. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), LR 24:

Lamarr Davis
Chairman

9710#076

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Architects Selection Board

Regular Meeting Dates; Application Form;
and Voting Procedure (LAC 4:VII.Chapter 1)

In accordance with R.S. 38:2310 et seq., as amended, the rules governing the Architects Selection Board are amended. These rules will replace the current rules and include the following changes: the times for the regular meetings are revised; the title of the application form is changed; and the voting procedure for the interview process is amended.

This emergency rule is to be effective upon publication in the *Louisiana Register* and will remain in effect for 120 days or until a final rule takes effect through the normal rulemaking process, whichever occurs first.

Emergency rulemaking is necessary in order to proceed immediately with the selection of a designer for the Elayn

Hunt Correctional Center, Skilled Nursing Care/Mental Health Unit/HIV-AIDS Unit, and renovation of related support facilities. This selection is imminent and will benefit from the revised procedure by having more qualified architects included in the review process.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 1. Architects Selection Board

§101. Name

The name of this board is the "Louisiana Architects Selection Board," hereinafter referred to as "board," and its domicile shall be in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:453 (June 1984), LR 24:

§103. Authority

The Louisiana Architects Selection Board shall be organized in accordance with the provisions of R.S. 38:2310 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:453 (June 1984), amended LR 15:262 (April 1989), LR 24:

§105. Objective

The objective of this board is to provide a system for the procurement of services rendered by architects, licensed to practice in the state of Louisiana, that is impartial, equitable and in the best public interest of the citizens of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:453 (June 1984), LR 24:

§107. Members

A. The board shall be composed of members, serving terms in accordance with the provisions of the authority set forth in §103.

B. Any member desiring to resign from the board shall submit his resignation, in writing by registered mail, to the governor of Louisiana and the president of the Board of Architectural Examiners, with copies addressed to the chairman of the board. The effective date of resignation shall be the date of registered mailing to the Governor's Office.

C. The filling of a board vacancy for the unexpired term due to resignation, or death, or removal from office by just cause, shall be made in accordance with the provisions of the authority stated in §103.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:453 (June 1984), amended LR 15:262 (April 1989), LR 24:

§109. Officers

A. The officers of this board shall be a chairman and a vice chairman elected by the board at the first regular meeting following each January 1 and July 1. The board member who serves as chairman and the board member who serves as vice chairman shall be from different, overlapping terms of service to the board. In the event, for whatever reason, the offices of both chairman and vice chairman of the board become vacant, a special board meeting shall be called within 30 days of the second vacancy to fill both vacancies for the remainder of the unexpired term of each respective office.

B. The duties of the chairman shall be as follows:

1. be the presiding officer at meetings of the board;
2. call meetings of the board;
3. coordinate the activities of the board;
4. appoint all committees and serve as an ex-officio member thereof;
5. be responsible for implementing all orders and resolutions of the board; and
6. have the authority to issue the official advertisement of the intent of an agency to contract for design services.

C. The duties of the vice chairman shall be as follows:

1. in the event of absence or incapacity of the chairman, assume his duties as outlined above;
2. authenticate by his signature, when necessary, all acts, orders, and proceedings of the board, including the minutes; and
3. tabulate and record the results of all balloting at the meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15:262 (April 1989), repromulgated LR 24:

§111. Meetings

A. A regular meeting of the board shall be held between January 1 and June 30 and between July 1 and December 31 of each year, unless such meeting is waived by the chairman as unnecessary.

B. Special meetings may be called by the chairman or shall be called upon the written request of a simple majority of the total membership of the board. Except in cases of emergency, at least three days' notice shall be given for special meetings.

C. A simple majority of all members of the board shall constitute a quorum.

D. All meetings shall be held in public except as provided in §128.A.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 1:180 (April 1975) amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15:262 (April 1989), LR 17:1206 (December 1991), LR 24:

§113. Committees

Committees, standing or special, shall be appointed by the chairman of the board as he shall deem necessary to carry on the work of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), LR 24:

§115. Parliamentary Authority

The rules contained in the current edition of *Robert's Rules of Order Newly Revised* shall govern the board except as modified herein or as provided for in §119.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 24:

§117. Voting

Only the votes of members present at the meeting shall be counted in the board's official actions. Proxy votes are not allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), LR 24:

§119. Amendments to Rules

These rules may be amended in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), LR 24:

§125. Application

A. Any applicant (proprietorship, partnership, corporation or joint venture of any of these) meeting the requirements of Title 38 of the Revised Statutes of 1950, R.S. 38:2310 et seq., may submit an application for selection consideration for a particular project upon which official advertisement has been published. The applicant shall submit data concerning its experience, previous projects undertaken, present state projects now being performed, scope and amount of work on hand, and any other information which the board may request.

B.1. The Louisiana Architects Selection Board adopts the use of the LASB-1 form as the format for submitting a firm's experiences to the board.

2. The board will accept only those applications submitted on the current edition of the LASB-1 form, with no more than two attached additional 8½" x 11" sheets of paper. Any submittal not following this format will be discarded.

3. In this LASB-1 form, *principal* shall be defined as a licensed architect who has the right and authority to exercise control over the project; who shares in profits, losses, and responsibility for incurred liabilities.

4. The board has the right to require proof of compliance with the above definition.

C. Consultants may be listed at the option of the applicant.

D. All applications to be considered shall be received by the board at the Office of Facility Planning and Control during the time prescribed in the advertisement.

E. The board may, at its option and with the concurrence of the Division of Administration and the user agency, conduct design competitions in accordance with nationally accepted professional standards. Final selection of the applicant from among the competition submissions will be made within 30 days of deadline date of receipt of the entries. No closed competitions will be allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15:262 (April 1989), LR 20:29 (January 1994), LR 24:

§127. Selection

A. After the deadline for applications, the Office of Facility Planning and Control shall forward copies of the applications together with any available description of the job to the board members.

B. The selection procedure shall be as follows:

1. user agency shall give scope of project and make recommendations, with supporting data, of a firm or firms for the project under consideration;
2. discussion of applications and recommendation by the board members;
3. the board shall then take a vote. Each board member present shall, by written ballot, vote for three applicants. This is a weighted vote:
 - a. first choice—three points;
 - b. second choice—two points;
 - c. third choice—one point.

Each board member shall vote for the first, second, and third choice of applicants for each project, except where fewer than six applicants have applied, in which case board members shall vote for only two applicants. In cases where there are three or fewer applicants, board members may vote for only one applicant. In all cases, board members may abstain from voting entirely;

4. the secretary shall tabulate these ballots aloud and report to the board the results of the balloting;

5. in the event that during the selection of a designer for a particular project the first ballot is unanimous for the first place choice, the selection shall be awarded to that firm, and a second ballot will not be required;

6. the two applicants receiving the most votes shall be considered nominated, then be voted on by written ballot, each board member having one vote;

7. the results of this balloting shall be announced by the secretary. The applicant selected must receive a majority vote;

8. in case of a tie for nomination, there shall be a runoff election to reduce the nominees to two in accordance with procedures prescribed in §127.B.3;

9. in case no applicant receives a majority vote for selection, a discussion will be held, and new balloting for selection shall take place;

10. the selection of an architect by the board shall be final unless formal charges of having submitted false information required by R.S. 38:2313 are made against the selected architect by the Office of Facility Planning and

Control, in writing, with proper accompanying documentation, to the board members and the selected architect within seven days of the selection. When a formal charge is made the board shall, within 10 calendar days, hold a hearing at which time the evidence of false information shall be presented and the selected architect shall be given opportunity to present rebuttal. If the board determines that the charges of false information are not sufficiently documented, the selection shall become final. If the board determines that the information was false, the application will be rejected and the project readvertised. The applicant shall be allowed to reapply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2313.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 1:181 (April 1975), amended LR 4:495 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15:263 (April 1989), LR 24:

§128. Interview Procedures

The interview procedures of the board are as follows:

1. The user agency notifies the Division of Administration, or the Division of Administration may determine on its own that the proposed project is of a special nature and should be considered under the interview procedure.

2. The user agency, the Division of Administration, and the chairman of the board (vice chairman in the absence of a chairman) shall decide if the nature of the project warrants utilizing the interview procedure. This may be done in a meeting or by teleconference.

3. The chairman of the board authorizes the Division of Administration to advertise the project under these procedures. The advertisement will contain:

- a. the deadline for applications;
- b. the date of the meeting;
- c. the proposed interview meeting date.

4. The selection procedure (§127) will be followed from §127.A and B.1, 2, 3, 4, and 6. However, if an applicant is not selected unanimously on the first ballot, the following procedure will be implemented:

a. After the results of the weighted ballot are reported, the board secretary will list all applicants receiving one or more points. They will be listed in order, ranked by number of points from highest to lowest.

b. After the list is prepared, there will be a roll call vote on each applicant starting with the first applicant on the list. Voting for each applicant will take place in the order that he is listed. Each applicant on the list will receive a "yes" or "no" vote from each board member. Each applicant that receives a majority of "yes" votes will be invited to be interviewed.

c. Voting will end when there are five applicants to be invited to be interviewed or the end of the list is reached, whichever comes first.

d. In the event that the end of the list is reached before there are at least three applicants to be interviewed, the board may begin voting again by the method of their choice.

e. All applicants selected by the foregoing process will be invited to be interviewed at an interview meeting.

5. The interview meeting will be held in accordance with criteria that the board sets forth in a letter to the applicants that have been selected to be interviewed.

6. At the interview meeting, the board will begin in an open meeting and vote to go into executive session to conduct the interviews in accordance with the criteria set forth in §128.A.5 and pursuant to R.S. 42:6 and 42:6.1.

7. After all the interviews have been conducted, the board will return to a public meeting.

8. At this time, the selection procedure will resume according to procedures outlined in §127.B.5, 7, 8, and 9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2310 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 17:1206 (December 1991), amended LR 24:

§129. Emergency Procedures

The emergency procedures of the board are as follows:

1. notification of emergency to the Division of Administration by the user agency is received;

2. chairman of the board is notified by the Division of Administration that an emergency does exist;

3. the chairman of the board then:

a. authorizes the advertisement; and

b. sets date for meeting for selection within 72 hours after advertisement is printed, not including Saturdays, Sundays and holidays;

4. meeting will convene at 10 a.m. on the day designated pursuant to §129.3.b to receive applications;

5. applications will be distributed as the first order of business;

6. meeting will then adjourn and reconvene one hour later (11 a.m.) after review of applications; and then selections shall be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2313.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 7:408 (August 1981), amended LR 10:455 (June 1984), LR 24:

§131. Communications with Applicant Firms

No member of the board shall communicate in any manner concerning a project application with any representative of an applicant firm or anyone communicating on behalf of an applicant firm. This restriction shall apply from the time advertisement of a project begins until the opening of the board meeting at which the project application will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 10:454 (June 1984), repromulgated LR 24:

§133. Information

Any person may obtain information concerning the board, its rules, regulations and procedures from the board's secretary at the Office of Facility Planning and Control, Division of Administration, Box 94095, Capitol Station, Baton Rouge, LA 70804. Requests for information may be made verbally or in writing. There may be a nominal fee charged to defray the cost of information furnished. Said fee shall be set by the Office of Facility Planning and Control, with the approval of

the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 4:495 (December 1978), repromulgated LR 10:455 (June 1984), amended LR 15:263 (April 1989), repromulgated LR 24:

§139. Severability

If any provision or item of these rules or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of these rules which can be given effect without the invalidated provisions, items, or applications and, to this end, the provisions of these rules are hereby declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 4:495 (December 1978), repromulgated LR 10:455 (June 1984), LR 24:

§141. Previous Rules Repealed

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 10:455 (June 1984), repealed LR 24:

Roger Magendie
Director

9710#056

DECLARATION OF EMERGENCY

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

Medicaid Eligibility—Continuity of Stay for Long-Term
Care and Home and Community Based Services

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

The Bureau of Health Services Financing has consistently applied continuity of stay as a condition for ongoing Medicaid eligibility for long-term care and home and community based services. Continuity of stay is considered to be interrupted when a recipient either is absent from a facility or does not receive waiver services for a period of more than 14 consecutive days, even if the recipient was not discharged from the facility or waiver. As a result of a clarification from the Health Care Financing Administration (HCFA), the bureau has decided to revise the continuity of stay requirement to allow up to 30 consecutive days for temporary absence from a facility or nonreceipt of waiver services before continuity of stay is considered to be interrupted for individuals eligible

under the special income level.

The following emergency rule is necessary to protect the health and welfare of Medicaid recipients who receive long-term care and home and community based services by assuring continued eligibility for these services when continuity of stay is interrupted for a period of less than 30 days. No change in expenditures is anticipated as a result of implementation of this emergency rule.

Emergency Rule

Effective September 23, 1997, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following requirement governing continuity of stay for the purpose of determining continued eligibility for long-term care and home and community based services. In addition, the adoption of this emergency rule revises the continuity of stay requirement contained in Section I of the Medicaid Eligibility Manual as follows:

A temporary absence from a facility or nonreceipt of waiver services shall be allowed for a period up to 30 consecutive days before continuity of stay will be considered interrupted for individuals eligible under the special income level.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. A copy of this emergency rule is available at the parish Medicaid offices for review by interested persons.

Bobby P. Jindal
Secretary

9710#019

DECLARATION OF EMERGENCY

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

**Medically Needy Program
Service Coverage Restrictions**

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted an emergency rule to terminate the Title XIX Medically Needy Program as an eligibility category under the Medicaid Program effective July 1, 1996 (*Louisiana Register*, Volume 22, Number 6). This action was taken to avoid a budget deficit in the Medicaid Program due to the lack of sufficient funds required to match the federal financial participation

required under Title XIX of the Social Security Act. A subsequent emergency rule was adopted in compliance with Executive Order MJF 96-17 to establish a state-funded Medically Needy Program with limitations (*Louisiana Register*, Volume 22, Number 7).

The department adopted an emergency rule reinstating the Title XIX Medically Needy Program and terminating the state-funded Medically Needy Program effective July 1, 1997 (*Louisiana Register*, Volume 23, Number 7). Another emergency rule was adopted with an effective date of August 1, 1997 to amend the July 1, 1997 emergency rule to place restrictions in service coverage under the reinstated Title XIX Medically Needy Program (*Louisiana Register*, Volume 23, Number 7).

As a result of comments received from professional services associations, the department has decided to amend the August 1, 1997 emergency rule to include the following services for coverage under the Title XIX Medically Needy Program: audiology, optometry, podiatry, and chiropractic services. All other components of the Title XIX Medically Needy Program shall be reinstated in accordance with the federal requirements as stated in the *Code of Federal Regulations*.

Emergency Rule

Effective October 29, 1997 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reinstates the Title XIX Medically Needy Program and amends the August 1, 1997 emergency rule regarding service coverage restrictions as follows:

Audiology, optometry, podiatry, and chiropractic services are included for coverage under the Title XIX Medically Needy Program.

The following services shall be covered:

- 1) inpatient and outpatient hospital services;
- 2) Intermediate Care Facility for the Mentally Retarded (ICF/MR) services;
- 3) Intermediate Care and Skilled Nursing Facility (ICF and SNF) services;
- 4) physician services, medical/surgical services by a dentist;
- 5) nurse midwife services;
- 6) Certified Registered Nurse Anesthetist (CRNA) services, anesthesiologist;
- 7) lab and x-ray services;
- 8) prescription drugs;
- 9) EPSDT (KIDMED) screening services;
- 10) rural health clinic services;
- 11) hemodialysis clinic services;
- 12) ambulatory surgery clinic services;
- 13) prenatal clinic services;
- 14) Federally Qualified Health Center (FQHC) services;
- 15) family planning services;
- 16) durable medical equipment;
- 17) rehabilitation services (PT, OT, ST);
- 18) nurse practitioner;
- 19) medical transportation services (emergency and nonemergency);
- 20) home health services for individuals needing skilled nursing services;

- 21) chiropractic services;
- 22) optometry services;
- 23) podiatry services;
- 24) audiology services; and
- 25) radiation therapy.

The following services shall not be covered:

- 1) dental services or dentures;
- 2) alcohol and substance abuse clinic/services;
- 3) mental health clinic services;
- 4) home and community based waiver services;
- 5) home health (nurse aid and physical therapy);
- 6) case management services;
- 7) mental health rehabilitation services;
- 8) psychiatric inpatient services for individuals under 22 years of age;
- 9) Sexually Transmitted Diseases (STD) Clinic services; and
- 10) Tuberculosis (TB) Clinic services.

All other components of the Title XIX Medically Needy Program shall be in accordance with the federal requirements as stated in the *Code of Federal Regulations*.

Bobby P. Jindal
Secretary

9710#069

DECLARATION OF EMERGENCY

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

**Mentally Retarded/Developmentally
Disabled—Pinecrest Waiver Slot Allocation**

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing administers the Mentally Retarded/Developmentally Disabled (MR/DD) waiver under Home and Community Based Services Waiver Programs. The bureau adopted regulations governing the MR/DD Waiver Program to terminate the previous restrictions placed on the assignment of vacated waiver slots; establish methodology for the assignment of slots vacated by discharged waiver participants and the 342 previously unoccupied slots; and clarify policies on admission and discharge criteria, mandatory reporting requirements and the

effective date on which Medicaid reimbursement for waiver services shall begin (*Louisiana Register*, Volume 23, Number 6).

The department has now determined that it is necessary to amend the language in the June 20, 1997 rule regarding the allocation of waiver slots to residents of the Pinecrest Developmental Center. The language is being amended to include the Hammond Development Center in the targeted groups for slot allocation in the following manner. A maximum of 160 slots shall be available to current residents of the Pinecrest and Hammond Developmental Centers or their alternates who successfully complete the financial and medical certification eligibility process and are certified for the waiver. The term *alternate* is defined as a current resident of a private ICF-MR community home who:

1. willingly chooses to apply for waiver participation; and
2. resides in a community group home that has agreed to accept a Pinecrest or Hammond Developmental Center resident for placement if a resident of the community home is certified for waiver participation. The Pinecrest or Hammond resident must be given freedom of choice in the selection of a private ICF-MR community home placement in the area of the resident's choice, based on availability.

The following emergency rule is necessary to assure the health and welfare of residents of Pinecrest Developmental Center, Hammond Developmental Center and private ICF-MR community homes by assuring access to those services appropriate to meet their needs.

Emergency Rule

Effective October 1, 1997 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the language contained in the June 20, 1997 rule regarding the allocation of waiver slots to residents of the Pinecrest Development Center:

A maximum of 160 slots shall be available to current residents of the Pinecrest and Hammond Developmental Centers or their alternates who successfully complete the financial and medical certification eligibility process and are certified for the waiver. The term *alternate* is defined as a current resident of a private ICF-MR community home who:

1. willingly chooses to apply for waiver participation; and
2. resides in a community group home that has agreed to accept a Pinecrest or Hammond Developmental Center resident for placement if a resident of the community home is certified for waiver participation. The Pinecrest or Hammond resident must be given freedom of choice in the selection of a private ICF-MR community home placement in the area of the resident's choice, based on availability.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

Bobby P. Jindal
Secretary

9710#018

DECLARATION OF EMERGENCY

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

Pharmacy Program—Maximum
Allowable Overhead Cost

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1997-1998 General Appropriations Act.

This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed by the Act.

The Department of Health and Hospitals, Bureau of Health Services Financing provides a pharmacy dispensing fee in the Pharmacy Program, in accordance with the methodology approved in the State Plan for the Maximum Allowable Overhead Cost, which includes a \$0.10 provider fee collected on all prescriptions dispensed to Louisiana Medicaid residents by pharmacists. This dispensing fee is called the Louisiana Maximum Allowable Overhead Cost and is determined by updating the base rate through the application of certain economic indices to appropriate cost categories to assure recognition of costs which are incurred by efficiently and economically operated providers. During state fiscal year 1995-96 the bureau maintained the Louisiana Maximum Allowable Overhead Cost at the state fiscal year 1994-95 level. The following emergency rule continues the Louisiana Maximum Allowable Overhead Cost at the state fiscal year 1994-95 level.

Emergency Rule

Effective for dates of services October 29, 1997 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions applicable to the Maximum Overhead Cost under the Pharmacy Program:

Maximum Allowable Overhead Cost

1. For state fiscal year 1997-98, the Maximum Allowable Overhead Cost will remain at the level established for state fiscal year 1994-95. This Maximum Allowable Overhead Cost was established by applying the 1993 indices to appropriate cost categories for a one-year period.

2. No inflation indices or any interim adjustments will be applied to the Maximum Allowable Overhead Costs for the time period July 1, 1997 through June 30, 1998.

Bobby P. Jindal
Secretary

9710#068

DECLARATION OF EMERGENCY

Department of Insurance
Office of the Commissioner

Regulation 63—Prohibitions on the Use of
Medical Information and Genetic Test Results

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Insurance has adopted an emergency regulation in order that it might be implemented without delay and allow the statutory provisions of Act 1418 of the 1997 Regular Session of the Louisiana Legislature to take effect without causing imminent peril to the health and safety of the residents of the state who could be denied access to health insurance coverage otherwise.

Emergency rulemaking is necessary to establish the statutory prohibitions on the use of medical information including pregnancy tests, genetic tests and related genetic test information by health insurers, third-party administrators, and insurance agents.

Effective October 3, 1997, this emergency regulation replaces and repeals the previous emergency regulation on genetic information declared effective September 8, 1997. This emergency regulation shall remain in effect for the maximum period of time allowed by state law.

Emergency Rule

Section 1. Purpose

The purpose of this regulation is to establish the statutory prohibitions on the use of medical information including pregnancy tests, genetic tests and related genetic test information by health insurers, third-party administrators, and insurance agents.

Section 2. Authority

This regulation is issued pursuant to the authority vested in the commissioner of Insurance under the Administrative Procedure Act and R.S. 22:3, 22:10, 22:2014, 22:2002(7), 22:214(22) and (23), 22:213.6, and 22:213.7 of the *Insurance Code*.

Section 3. Definitions

Collection—obtaining a DNA sample or samples for the purpose of determining inherited or individual characteristics that can be utilized to predict the development of medical conditions in the future. *Collection* shall not mean diagnostic or medical treatment information about an existing medical condition or the prior medical condition of a person applying for or being covered by a health benefit plan.

Compulsory Disclosure—any disclosure of genetic information mandated or required by federal or state law in connection with a judicial, legislative, or administrative proceeding.

DNA—deoxyribonucleic acid including mitochondrial DNA, complementary DNA, as well as any DNA derived from ribonucleic acid (RNA). *DNA* shall not mean any medical procedure or test utilized in the practice of medicine

for the purpose of diagnosing or treating a medical illness or health related condition.

Disclose—to convey or to provide access to genetic information to a person other than the individual.

Family—includes an individual's blood relatives and any legal relatives, including a spouse or adopted child, who may have a material interest in the genetic information of the individual. For purposes of providing individual or group health care coverage, the term *family* shall not be used to prevent the collection of reasonable medical information about individuals applying for health insurance coverage to perform medical underwriting based on existing or past medical conditions of those persons being insured.

Family History/Pedigree—the medical history of blood relatives of an individual that is used to predict the possibility of developing a medical condition in the future. The term shall not include the medical history of an insured or applicant for coverage under a health benefit plan.

Genetic Analysis—the process of characterizing genetic information from a human tissue sample and does not include the performance of medical tests, including but not limited to blood tests, in the diagnosis or treatment of a medical condition.

Genetic Characteristic—any gene or chromosome, or alteration thereof, that is scientifically or medically believed to cause a disease, disorder, or syndrome, or to be associated with a statistically significant increased risk of development of a disease, disorder or syndrome. The term shall not apply to identification or disclosure of an individual's gender for the purposes of obtaining or maintaining insurance or establishing insurance rates.

Genetic Information—all information about genes, gene products, inherited characteristics, or family history/pedigree that is expressed in common language. *Genetic information* does not include the medical history of an individual insured or applicant for health care coverage.

Genetic Test—any test for determining the presence or absence of genetic characteristics in an individual, including tests of nucleic acids, such as DNA, RNA, and mitochondrial DNA, chromosomes, or proteins in order to diagnose or identify a genetic characteristic. The determination of a genetic characteristic shall not include any diagnosis of the presence of disease, disability, or other existing medical condition.

Health Benefit Plan—any health insurance policy, plan, or health maintenance organization subscriber agreement issued for delivery in this state under a valid certificate of authority and does not include life, disability income, or long-term care insurance.

Individual—the source of a human tissue sample from which a DNA sample is extracted or genetic information is characterized.

Individual Identifier—a name, address, social security number, health insurance identification number, or similar information by which the identity of an individual can be determined with reasonable accuracy, either directly or by reference to other available information. Such term does not include characters, numbers, or codes assigned to an individual or a DNA sample that cannot singly be used to

identify an individual.

Insurer—any hospital, health, or medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, health and accident insurance policy, or any other insurance contract of this type, including a group insurance plan, or any policy of group, family group, blanket, or franchise health and accident insurance, a self-insurance plan, health maintenance organization, and preferred provider organization, including insurance agents and third-party administrators, which delivers or issues for delivery in this state an insurance policy or plan. The term *insurer* does not include any individual or entity that does not hold a valid certificate of authority to issue, for delivery in this state, an insurance policy or plan. A certificate of authority to issue an insurance policy or plan for delivery shall not include a license or certificate to act as a preferred provider organization, insurance agent, or third-party administrator.

Person—all persons other than the individual or authorized agent acting on behalf of the individual, who is the source of a tissue sample and shall include a family, corporation, partnership, association, joint venture, government, governmental subdivision or agency, and any other legal or commercial entity. The term shall not include any licensed insurance agent acting on behalf of the individual to complete and submit health insurance application documents required to apply for coverage under a health policy or plan.

Research—scientific investigation that includes systematic development and testing of hypotheses for the purpose of increasing knowledge.

Storage—retention of a DNA sample or of genetic information for an extended period of time after the initial testing process. The term does not include medical history information about insureds or persons applying for coverage under a health benefit plan.

Section 4. Applicability and Scope

Except as otherwise specifically provided, the requirements of this regulation apply to all issuers of health care policies or contracts of insurance, or health maintenance organization subscriber agreements issued for delivery in the state of Louisiana. The requirements of this regulation shall not impinge upon the normal practice of medicine or reasonable medical evaluation of an individual's medical history for the purpose of providing or maintaining health insurance coverage. The requirements of this regulation address the use of medical information, including use of genetic tests, and genetic information for the purpose of issuing, renewing, or establishing premiums for health coverage. The provisions of this regulation do not apply to any actions of an insurer or third parties dealing with an insurer taken in the ordinary course of business in connection with the sale, issuance or administration of a life, disability income, or long-term care insurance policy.

Section 5. Prohibitions on the Use of Pregnancy Test Results

Any insurer shall be authorized to request medical information that verifies the pregnancy of an insured or individual applying for coverage under a health benefit plan. The results of any prenatal test, other than the determination of pregnancy, shall not be used as the basis to:

1. terminate, restrict, limit, or otherwise apply conditions to the coverage under the policy or plan, or restrict the sale of the policy or plan in force;
2. cancel or refuse to renew the coverage under the policy or plan in force;
3. deny coverage or exclude an individual or family member from coverage under the policy or plan in force;
4. impose a rider that excludes coverage for certain benefits or services under the policy or plan in force;
5. establish differentials in premium rates or cost sharing for coverage under the policy or plan in force;
6. otherwise discriminate against an insured individual or insured family member in the provision of insurance.

Section 6. Requirements for Release of Genetic Test and Related Medical Information

A. A general authorization for the release of medical records or medical information shall not be construed as an authorization for disclosure of genetic information. No insurer shall seek to obtain genetic information from an insured or applicant or from a DNA sample, without first obtaining written informed consent from the individual or authorized representative. To be valid, an authorization to disclose the results of a genetic test shall:

1. be in writing, signed by the individual and dated on the date of such signature;
2. identify the person permitted to make the disclosure;
3. describe the specific genetic information to be disclosed;
4. identify the person to whom the information is to be disclosed;
5. describe with specificity the purpose for which the disclosure is being made;
6. state the date upon which the authorization will expire, which in no event shall be more than 60 days after the date of the authorization;
7. include a statement that the authorization is subject to revocation at any time before the disclosure is actually made or the individual is made aware of the details of the genetic information;
8. include a statement that the authorization shall be invalid if used for any purpose other than the described purpose for which the disclosure is made.

B. A copy of the authorization shall be provided to the individual. An individual may revoke or amend the authorization in whole or in part, at any time. In complying with the provisions of this Section, the record holder is responsible for assuring only authorized information is released to insurers with respect to medical records that contain genetic information. The requirements of this Section shall not act to impede or otherwise impinge upon the ability of the patient's attending physician to provide appropriate and medically necessary treatment or diagnosis of a medical condition.

Section 7. Prohibitions on the Use of Medical Information and Genetic Test Results

A. No insurer shall require an applicant for coverage under a policy or plan, or an individual or family member who is presently covered under a policy or plan, to be the subject of a genetic test, release genetic test information, or to be

subjected to questions relating to the medical conditions of persons not being insured under such policy or plan.

B. All insurers shall, in the application or enrollment information required to be provided by the insurer to each applicant concerning a policy or plan, include a written statement disclosing the rights of the applicant. Such statements shall be printed in 10-point type or greater with a heading in all capital letters that states: YOUR RIGHTS REGARDING THE RELEASE AND USE OF GENETIC INFORMATION. Disclosure statements must be approved by the Department of Insurance as complying with the requirements of R.S.22:213.7 prior to utilization.

C. The results of any genetic test, including genetic test information, shall not be used as the basis to:

1. terminate, restrict, limit, or otherwise apply conditions to the coverage of an individual or family member under the policy or plan, or restrict the sale of the policy or plan to an individual or family member;
2. cancel or refuse to renew the coverage of an individual or family member under the policy or plan;
3. deny coverage or exclude an individual or family member from coverage under the policy or plan.
4. impose a rider that excludes coverage for certain benefits or services under the policy or plan;
5. establish differentials in premium rates or cost sharing for coverage under the policy or plan;
6. otherwise discriminate against an individual or family member in the provision of insurance.

Section 8. General Provisions

A. The requirements of this Section shall not apply to the genetic information obtained:

1. by a state, parish, municipal, or federal law enforcement agency for the purposes of establishing the identity of a person in the course of a criminal investigation or prosecution;
2. to determine paternity;
3. to determine the identity of deceased individuals;
4. for anonymous research where the identity of the subject will not be released because it is confidential;
5. pursuant to newborn screening requirements established by state or federal law;
6. as authorized by federal law for the identification of persons;
7. by the Department of Social Services or by a court having juvenile jurisdiction as set forth in *Children's Code* Article 302 for the purposes of child protection investigations or neglect proceedings.

B. An applicant/insured's genetic information is the property of the applicant/insured. No person shall retain genetic information without first obtaining authorization from the applicant/insured or a duly authorized representative, unless retention is:

1. for the purposes of a criminal or death investigation or criminal or juvenile proceeding;
2. to determine paternity.

C. The standards of accrediting bodies, professional associations, and federal agencies shall not be considered in determining negligence or willful disclosure of genetic test results, or genetic information. For purposes of R.S. 22:213.7,

any person who acts without proper authorization to collect a DNA sample for analysis, or willfully discloses genetic information without obtaining permission from the individual or patient as required under this regulation, shall be liable to the individual for each such violation in an amount equal to:

1. any actual damages sustained as a result of the unauthorized collection, storage, analysis, or disclosure, or \$50,000, whichever is greater;

2. treble damages, in any case where such a violation resulted in profit or monetary gain;

3. the costs of the action together with reasonable attorney fees as determined by the court, in the case of a successful action to enforce any liability under R.S. 22:213.7.

D. Any person who, through a request, the use of persuasion, under threat, or under a promise of a reward, willfully induces another to collect, store or analyze a DNA sample in violation; or willfully collects, stores, or analyzes a DNA sample; or willfully discloses genetic information in violation of R.S. 22:213.7 shall be liable to the individual for each such violation in an amount equal to:

1. any actual damages sustained as a result of the collection, analysis, or disclosure, or \$100,000, whichever is greater;

2. the costs of the action together with reasonable attorney fees as determined by the court, in the case of a successful action under R.S. 22:213.7.

E. The discrimination against an insured in the issuance, payment of benefits, withholding of coverage, cancellation, or nonrenewal of a policy, contract, plan or program based upon the results of a genetic test, receipt of genetic information, or a prenatal test other than one used for the determination of pregnancy shall be treated as an unfair or deceptive act or practice in the business of insurance under R.S. 22:1214.

James H. "Jim" Brown
Commissioner of Insurance

9710#041

DECLARATION OF EMERGENCY

Department of Natural Resources Office of Conservation

Austin Chalk Formation (LAC 43:XIX.Chapter 43)

Pursuant to the power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, R.S. 30:1 et seq., as amended, and in conformity with the provisions of the Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2) and 954(B)(2), as amended, the commissioner of Conservation adopts the following emergency rule providing for the exploration and development of the Austin Chalk Formation using horizontal wells within the state of Louisiana. This emergency rule provides for the orderly development of the Austin Chalk Formation to prevent waste, to avoid the drilling of unnecessary wells, and to otherwise carry out the laws of this state.

Because of the special and different nature of the Austin Chalk Formation and the many horizontal wells which are now in the process of exploring for and developing it, certain separate and new regulatory emergency rules are needed. These are being adopted in recognition of the fact that the Austin Chalk Formation in Louisiana, which is now being developed, is deep and highly pressured, with extremely high temperatures, and that very expensive and sensitive downhole equipment is needed to accommodate the need for drilling horizontally in a very narrow corridor. It is now obvious that economic development of the Austin Chalk Formation can only be accomplished by the use of lengthy horizontal laterals.

In addition, because these wells are potentially capable of draining a greater area of hydrocarbons than traditional vertical wells, these rules are reasonably necessary to protect the public welfare by protecting correlative rights in a common reservoir and preventing waste.

Accordingly, the following emergency rule is hereby adopted for the Austin Chalk Formation horizontal wells with the understanding that experience in the application of these emergency rules may require that they be changed from time to time to better regulate the drilling to and development of the Austin Chalk Formation, striving always to provide orderly development, prevent waste and avoid the drilling of unnecessary wells. Such changes shall be in full accordance with the Administrative Procedure Act. The emergency rule, Statewide Order No. 29-S, set forth hereafter, is now adopted by the Office of Conservation.

The effective date for this emergency rule is September 15, 1997, and it shall remain effective for a period of not less than 120 days hereafter, or until the adoption of the final version of Statewide Order Number 29-S as noted herein, whichever occurs first.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation: General Operations

Subpart 18. Statewide Order No. 29-S

Chapter 43. Austin Chalk Formation

§4301. Scope

This Statewide Order provides rules and regulations governing the drilling of horizontal wells in the Austin Chalk Formation in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 23:

§4303. Definitions

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

Austin Chalk Formation Horizontal Well—well with the wellbore drilled laterally at an angle of at least 80° to the vertical and with a horizontal displacement of at least 50 feet in the Austin Chalk Formation measured from the initial point of penetration into the Austin Chalk.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 23:

§4305. Order

From and after the effective date hereof, permission to develop the Austin Chalk Formation in the state of Louisiana by the use of horizontal wells may be obtained as hereinafter provided and upon strict compliance with the procedures set forth herein.

1. The restriction on tubing size as set forth in LAC 43:XIX.109.E.1 of Statewide Order No. 29-B shall not apply to Austin Chalk Formation horizontal wells.

2. Statewide Order No. 29-E well spacing rules shall not apply to Austin Chalk Formation horizontal wells. The following well spacing rules shall apply to Austin Chalk Formation horizontal wells in areas in which no spacing rules for Austin Chalk Formation horizontal wells have been established by special orders, provided that exceptions may be approved after a public hearing based on 10 days legal notice:

a. a subsequent Austin Chalk Formation horizontal well shall not be located so as to encroach into a rectangle formed by drawing north-south lines 3,000 feet east of the most easterly point and 3,000 feet west of the most westerly point and east-west lines 100 feet north of the most northerly point and 100 feet south of the most southerly point of any horizontal well completed in, drilling to, or for which a permit shall have been granted to drill to the Austin Chalk Formation. In the case of a single horizontal well, the point of entry into the Austin Chalk Formation (if available) is to be used in lieu of the surface location in determining the northern or southern boundary of the rectangle;

b. survey plats submitted with the application for permit to drill shall contain certification of the surveyor specifying compliance with this requirement;

c. multiple Austin Chalk Formation horizontal well laterals drilled into the same stratigraphic interval from a single wellbore will be treated as a single completion, even if the laterals are isolated by separate producing strings to the surface.

3. The gas allowable provisions of Statewide Order No. 29-F shall not apply to Austin Chalk Formation horizontal wells. Instead, Austin Chalk Formation horizontal wells shall be given an allowable based on the Maximum Efficient Rate (MER) of the well, being the maximum sustainable daily withdrawal rate from the reservoir which will permit economical development and depletion without causing waste. In the event an alternate unit well is authorized for any Austin Chalk Formation unit, such unit allowable shall be limited to the greater of the MER of the best well in said unit or the highest rate of withdrawal on a per acre basis of any unit in the same reservoir and field. If there is any complaint of waste or dispute relative to compliance with R.S. 30:11(B), the allowable assigned to an Austin Chalk Formation horizontal well shall be subject to adjustment after a public hearing based on 10 days legal notice.

a. Unless an exception is granted as provided herein, no allowable will be granted for a horizontal completion in the Austin Chalk Formation until a unit has been formed pursuant to an Office of Conservation Order for the well unless the operator agrees to escrow all monies received from pre-unitization production pending unitization and distribute such funds on the basis of the unit ultimately established.

b. The operator of a well may request an exception to this requirement for a well located on a large lease/voluntary unit or for other good cause shown.

c. The commissioner of Conservation will have the discretion to either approve or deny such application or require that the applicant request a public hearing to be held after 10 days legal notice to consider the matter.

4. The Office of Conservation's policy requiring a sand definition and production test in the field before units can be established shall not apply to Austin Chalk Formation horizontal wells.

5. The size and shape of units for Austin Chalk Formation horizontal wells should usually be based on the proposed design of the well because such units are expected to be developed by horizontal laterals which traverse the entire unit in a generally north-south direction. If the initial lateral in a drilling unit fails to provide full horizontal coverage in a north-south direction, additional horizontal laterals or wells drilled to acquire that coverage shall be considered and named unit wells rather than alternate unit wells. However, if any such additional unit well or lateral overlaps an existing unit well or lateral in an east-west direction, it shall be considered and named an alternate unit well. Overlaps shall be determined by use of a line parallel to the north and south unit boundaries. This provision shall only apply to Austin Chalk Formation horizontal wells and shall not be used as a precedent for any other formation.

6. The party who owns or controls the majority working interest in a drilling unit established for an Austin Chalk Formation horizontal well shall have the right to be designated the operator of such unit. Such ownership or control shall be based on sworn testimony at the public hearing which creates the drilling unit. If the working interest ownership or control in a unit is not known or cannot be established with reasonable certainty when the unit is created, then the operator designation shall occur when a drilling permit is issued for the drilling of a well on the unit. The party requesting such drilling permit shall complete and file an affidavit corroborating such majority ownership or control on the affidavit form provided by the file in the Office of Conservation. It is provided, however, that any party designated as a unit operator can be removed or a working interest owner who does not own or control the majority in working interest can be designated as unit operator after a public hearing based on 10 days legal notice if it is demonstrated that the designated operator and/or majority working interest owner has not timely developed the unit, has not acted prudently, or that other good cause exists therefor.

7. Statewide Order No. 29-B requires that a directional survey be run on all wells which are directionally controlled and thereby intentionally deviated from the vertical. The requirement that a directional survey be run the entire length of the lateral in an Austin Chalk Formation horizontal well may be waived by the Office of Conservation if evidence is presented at the time such waiver is requested that the directional survey cannot reasonably reach the end of the lateral and that measuring from the point where the directional survey ends, the lateral of the well will still be:

a. within the spacing provisions for the unit upon which it has been drilled or, if a unit has not been established, under a tract for which authority to drill has been obtained, and

b. at least the distance from all offsetting wells required by applicable spacing rules or in the absence thereof, the provisions of §4305.A.2.

8. An application for permit to drill in an area affected by a pending application requesting the formation of one or more units will be issued without regard to the pending unitization proceedings. However, the permit so issued shall not be used at the hearing (only drilled wells may be considered), and the permit will be subject to the order issued as a result of such hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 23:

Summary

The emergency rule hereinabove adopted evidences the finding of the commissioner of Conservation that there is an immediate need to establish emergency rules for the drilling to and exploration of the Austin Chalk Formation, and that there is not time to provide adequate notice to interested parties. The commissioner of Conservation also finds it impractical to provide a public hearing regarding this emergency rule given the extreme urgency of the matter. However, the commissioner of Conservation notes again that a copy of the permanent Statewide Order Number 29-S will be sent out in the near future, with a public hearing to be held as per the requirements of the Administrative Procedure Act.

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

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

George L. Carmouche
Commissioner

9710#022

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Corrections Services

Death Penalty (LAC 22:I.103)

The Department of Public Safety and Corrections, Corrections Services has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), in order to implement the provisions of R.S. 15:567-571 and adopts the following emergency rule, effective September 15, 1997.

Emergency rulemaking is necessary to allow the Department of Public Safety and Corrections to carry out executions during the hours of 6 p.m. until 11:59 p.m., in accordance with Act 1260 of the 1997 Legislative Session, which revised the time for executions (formerly 12 midnight to 3 a.m.). This rule makes all necessary changes to implement this action. Without this emergency action the department will be unable to carry out presently scheduled executions which are under court order.

This emergency rule shall remain in effect for 120 days or until a final rule is promulgated, whichever occurs first.

TITLE 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 1. Secretary's Office

§ 103. Death Penalty

A. Purpose. To set forth procedures to be followed for the lethal injection of those individuals sentenced to death.

B. Responsibility. Assistant secretary/Office of Adult Services and the wardens of the Louisiana State Penitentiary and the Louisiana Correctional Institute for Women.

C. Incarceration Prior to Execution. Male inmates sentenced to death shall be incarcerated at the Louisiana State Penitentiary at Angola, Louisiana. Female inmates sentenced to death shall be incarcerated at the Louisiana Correctional Institute for Women at St. Gabriel, Louisiana. Until the time for execution, the warden shall incarcerate the inmate in a manner affording maximum protection to the general public, the employees of the department, and the security of the institution. Female inmates shall be transported to the Louisiana State Penitentiary on the day immediately prior to the execution date.

D. Visits

1. During the final 72 hours before the scheduled execution, the warden may approve special visits for the condemned inmate.

2. All visits will terminate by noon on the day of the execution except visits with a priest, minister, religious advisor, or attorney, which will terminate at the direction of the warden or his designee.

E. Media Access

1. Reporters with the proper credentials may contact the warden's office to request interviews. If the warden, inmate, and attorney (if represented by counsel) consent, the interview shall be scheduled for a time convenient to the institution.

2. Should the demand for interviews be great, the warden may set a day and time for all interviews to be conducted and may specify whether interviews will be done individually or in "press conference" fashion.

F. Pre-Execution Activities

1. The warden shall select appropriate areas to serve as a press room and for any mobile press units.

2. The execution room shall be off limits to unauthorized inmates and employees from 8 a.m. on the day preceding the execution until such time after the execution as the warden deems appropriate. The execution room shall also be off limits to the public and press five days before the execution until such time after the execution as the warden deems appropriate.

3. All persons selected as witnesses will sign copies of the witness agreement prior to being transported to the execution room.

G. Execution. Time and Place. The execution shall take place at the Louisiana State Penitentiary between the hours of 6 p.m. and 11:59 p.m. [R.S. 15:570(B)].

H. Witnesses

1. The execution shall take place in the presence of the following witnesses:

- a. the warden of the Louisiana State Penitentiary or designee;
- b. the coroner of West Feliciana Parish or deputy;
- c. a physician chosen by the warden;
- d. a competent person selected by the warden to administer the lethal injection; and
- e. a priest, minister, or religious advisor, *if the inmate so requests*.

2. Not less than five, nor more than seven other witnesses are required by law to be present [R.S. 15:570(A)]. These witnesses will be selected as follows:

- a. three witnesses will be members of the news media;
 - i. a representative from the Associated Press;
 - ii. a representative, selected from the media persons requesting to be present, from the parish where the crime was committed; and
 - iii. one representative selected from all other media persons requesting to be present;
 - iv. these witnesses must agree to act as pool reporters for the remainder of the media present and meet with all media representatives immediately following the execution;
- b. two witnesses may be members of the victim's family, if requested;
 - i. the number of victim-relationship witnesses may be limited to two. If more than two victim-relationship witnesses desire to attend the execution, the secretary is authorized to select from the interested parties the two victim-relationship witnesses who will be authorized to attend [R.S. 15:570(B)].

ii. at least 10 days prior to the execution, the secretary shall give written notice of the date and time of execution to the victim's parents, or guardian, spouse, and any adult children who have indicated to the secretary that they desire such notice. The named parties shall be given the

option of attending the execution and shall, within three days of their receipt of the notification, notify, either verbally or in writing, the secretary's office of their intention to attend [R.S. 15:570(B)];

c. the remaining witnesses (a minimum of two and a maximum of four, depending upon the number of witnesses designated under Subsection H.2) will be selected by the secretary from persons whom he feels have a legitimate interest in being present;

d. all witnesses must be residents of the state of Louisiana and over 18 years of age; and all must agree to sign the report of the execution [R.S. 15:570-571];

e. no cameras or recording devices, either audio or video, will be permitted in the execution room.

I. Procedures

1. The witnesses will enter the witness room where they will receive a copy of the inmate's written last statement, if a written statement is issued.

2. The inmate will then be taken to the lethal injection room by the escorting officers. Once in the room, the inmate will be afforded the opportunity to make a last verbal statement, if he so desires. He will then be assisted onto the lethal injection table and properly secured to the table by the officers. Once the officers exit the room, the warden will close the curtain to the witness room and signal the I.V. technician to enter. The I.V. technician will appropriately prepare the inmate for execution and exit the room. The warden will reopen the witness room curtain.

3. The person designated by the warden and at the warden's direction, will then administer, by intravenous injection, a substance or substances, in a lethal quantity, into the body of the inmate until he is deceased.

4. At the conclusion of the execution, the coroner or his deputy shall pronounce the inmate dead. The deceased shall then be immediately taken to an awaiting ambulance for transportation to a place designated by the next of kin, or in accordance with other arrangements made prior to the execution.

5. The warden will make a written report reciting the manner and date of the execution which he and all of the witnesses will sign. The report shall be filed with the clerk of court in the parish where the sentence was originally imposed [R.S. 15:571].

6. No employee, including employee witnesses to the execution, except the secretary or the warden or their designee, shall communicate with the press regarding any aspect of the execution, except as required by law.

AGREEMENT BY WITNESS TO EXECUTION

I, _____, a person of full age and majority, and citizen of the state of Louisiana, hereby agree to the following conditions precedent to being a witness to the execution of a sentence of death at Louisiana State Penitentiary, Angola, LA:

- 1. I agree that my presence at the execution is voluntary.
- 2. I agree to sign the report of the execution, as required by law.
- 3. I agree to comply with all rules and regulations of the Department of Public Safety and Corrections and the Louisiana State Penitentiary during the course of the proceedings leading up to, during, and after the completion of the execution.
- 4. I agree that I will not electronically record or photograph any activities while I am present in the lethal injection room.

5. I agree to submit to a search of my person before and after the execution, if requested to do so by the warden of the Louisiana State Penitentiary.
6. If I am a member of the press selected as a witness to the execution, I agree to act as a pool reporter for the media representatives not present at the execution, and I agree to meet with all media representatives present at the penitentiary immediately after the execution.
7. If I am an employee of the Department of Public Safety and Corrections, I agree that I will make no public statements about the execution without prior approval of the warden of the Louisiana State Penitentiary.

I have read the above agreement, understand it, and have signed it in the presence of the listed witnesses on this date _____.
(Day, Month, Year)

WITNESSES TO SIGNATURE:

Selected Witness to Execution

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:567-15:571.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of the Secretary, LR 6:10 (January 1980), amended LR 7:177 (April 1981), amended by the Department of Public Safety and Corrections, Corrections Services, LR 17:202 (February 1991), LR 18:77 (January 1992), LR 23:

Richard L. Stalder
Secretary

9710#070

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of State Police

Weights and Standards Mobile
Police Force (LAC 55.I.2101 and 2103)

In accordance with R.S. 49:953, the Department of Public Safety and Corrections, Office of State Police is exercising the provisions of the Administrative Procedure Act to adopt an emergency rule pertaining to the repeal of an emergency rule implementing the civil enforcement of the weights and standards law by the Louisiana State Police Weights and Standards Mobile Police Force. The emergency rule became effective August 22, 1997, was to remain in effect for 120 days, and was published in the September 20, 1997 *Louisiana Register* on page 1104. This emergency rule, which repeals the prior emergency rule, takes effect upon adoption.

The Department of Public Safety and Corrections, Office of State Police repeals the August 22, 1997 emergency rule regarding civil enforcement of the weights and standards law by the Louisiana State Police Weights and Standards Mobile Police Force. The Department of Public Safety and Corrections, Office of State Police will not proceed with the notice of intent.

As a result, the Department of Public Safety and Corrections, Office of State Police hereby adopts this emergency rule, which repeals the emergency rule that was

effective August 22, 1997 in its entirety, copies of which may be obtained from the Office of State Police, Box 66614, Baton Rouge, LA 70896-4886 or through the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

Thomas H. Normile
Undersecretary

9710#020

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of State Police Safety Enforcement Section

Out-of-State Inspection Stations (LAC 55:III.808)

In accordance with R.S. 49:953, the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section is exercising the provisions of the Administrative Procedure Act to adopt an emergency rule pertaining to the repeal of an emergency rule implementing the 1997 Regular Session amendments to R.S. 32:1301 and R.S. 32:1305 authorizing the establishment of motor vehicle inspection stations by any business owning more than 40 motor vehicles registered pursuant to the International Registration Plan in Louisiana and operating at least one vehicle repair and maintenance shop. The 1997 amendment authorizes the establishment of such inspection stations within or without the state of Louisiana.

The emergency rule became effective September 10, 1997, was to remain in effect for 120 days, and was published in the September 20, 1997 *Louisiana Register* on page 1101. This emergency rule, which repeals the prior emergency rule, takes effect upon adoption.

The Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section repeals the September 10, 1997 emergency rule regarding out-of-state inspection stations in its entirety. The Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section will proceed with the notice of intent which was also published in the September 1997 *Louisiana Register*.

As a result, the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section hereby adopts this emergency rule, which repeals the emergency rule that was effective September 10, 1997, in its entirety, copies of which may be obtained from the Office of State Police, Safety Enforcement Section, Box 66614, Baton Rouge, LA 70896-4886, or through the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

Thomas H. Normile
Undersecretary

9710#026

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Electronic Benefits Transfer—Retailers
and Cash Access (LAC 67:III.403 and 405)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to adopt the following rule in LAC 67:III.Subpart 1, General Administrative Procedures regarding the Electronics Benefits Issuance System. This emergency rule shall remain in effect for a period of 120 days.

Acts 1155 and 1483 of the 1997 Louisiana Legislative Session provided that recipients of Family Independence Temporary Assistance Program (FITAP) cash assistance may be charged usual and customary fees for accessing cash benefits at retail establishments. In order to protect recipients by clearly defining those situations in which they can be assessed service fees, this emergency rule is necessary to set forth guidelines and other provisions regarding retail establishments.

Title 67 SOCIAL SERVICES

Part III. Office of Family Support

Subpart 1. General Administrative Procedures

Chapter 4. Electronics Benefits Issuance System

§403. Participation of Retailers Effective

October 1, 1997

A. Retail establishments which are U.S. Department of Agriculture, Food and Consumer Service authorized food stamp benefit redemption points must be allowed the opportunity to participate in the state EBT system. All other retail establishments must be approved by the agency in order to participate in the cash access component of the system. Retailers approved by the agency to participate in cash access may be charged connection fees and/or monthly lease fees for electronic and telephone equipment lines necessary to establish connection to the EBT System.

B. Retail establishments found guilty of abuse, misuse or fraud of the system by using the EBT "Louisiana Purchase" card in a manner or intent contrary to the purpose of the card, in providing benefits to eligible recipients, shall be permanently disqualified from participating as a cash redemption point and shall have all equipment provided by the vendor disconnected and removed from the establishment after due process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:

§405. Service Fees Effective October 1, 1997

A. Recipients of cash assistance may be charged fees for accessing cash only benefits. Retailers may charge their usual and customary check cashing fee for providing cash only benefits to FITAP recipients under the following circumstances:

1. the recipient presents a valid EBT system card (known as the "Louisiana Purchase Automated Benefit Card"); and

2. the recipient is not using the card to obtain cash in conjunction with the purchase of goods or services through the EBT system.

B. Retailers may process cash transactions through the EBT system only while the system is available. Retailers shall not dispense cash to recipients using vouchers or other means of implied payment to the retailer.

C. Retailers are prohibited from recovering losses through the EBT system due to their errors that are discovered after the transaction is completed and the recipient has left the place of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:450.1(C)(3), R.S. 46:231.13, R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support in LR 23:

Madlyn B. Bagneris
Secretary

9710#033

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Family Independence Temporary Assistance Program
(FITAP)—Alien Eligibility (LAC 67:III.1141 and 1143)

The Department of Social Services, Office of Family Support has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Family Independence Temporary Assistance Program (FITAP). This emergency rule shall remain in effect for a period of 120 days.

Pursuant to provisions of Public Law 104-208, the United States' Omnibus Consolidated Appropriations Act and Public Law 105-33, the Balanced Budget Act of 1997, a change in FITAP policy concerning the eligibility of certain aliens is required. This emergency rule is necessary to effect these mandated regulations to avoid sanctions or penalties which could be imposed by further delaying implementation.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 11. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§1141. Eligibility Requirements for Aliens

A.1. - 4. ...

5. an alien whose deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date of §307 of Division C of Public Law 104-208) or §241(b)(3) of such Act (as amended by §305(a) of Division C of Public Law 104-208);

6. an alien who is granted conditional entry pursuant to §203(a)(7) of such Act, as in effect prior to April 1, 1980; or

7. an alien who is a *Cuban* or *Haitian* entrant, as defined in §501(e) of the Refugee Education Assistance Act of 1980;

8. an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or parent or by a member of the spouse's or parent's family residing in the same household as the alien if the spouse or parent consented to, or acquiesced in, such battery or cruelty. The individual who has been battered or subjected to extreme cruelty must no longer reside in the same household with the individual who committed the battery or cruelty. The agency must also determine that a substantial connection exists between such battery or cruelty and the need for the benefits to be provided. The alien must have been approved or have a petition pending which contains evidence sufficient to establish:

a. the status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of §204(a)(1)(A) of the Immigration and Nationality Act (INA); or

b. the classification pursuant to clause (ii) or (iii) of §204(a)(1)(B) of the INA; or

c. the suspension of deportation and adjustment of status pursuant to §244(a)(3) of the INA; or

d. the status as a spouse or child of a United States citizen pursuant to clause (i) of §204(a)(1)(A) of the INA, or classification pursuant to clause (i) of §204(a)(1)(B) of the INA;

9. an alien child or the alien parent of a battered alien as described in §1141.A.8.

B.1. - 2. ...

3. the alien's deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date of §307 of Division C of Public Law 104-208) or §241(b)(3) of such Act (as amended by §305(a) of Division C of Public Law 104-208);

4. the alien is a *Cuban* or *Haitian* entrant, as defined in §501(e) of the Refugee Education Assistance Act of 1980;

5. the alien is an *Amerasian* immigrant admitted pursuant to §584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988;

6. the alien is lawfully residing in the United States and is a *veteran* (as defined in §§101, 1101, or 1301, or as described in §107 of Title 38, *United States Code*) who is honorably discharged for reasons other than alienage and who fulfills the minimum active-duty service requirements of §5303A(d) of Title 38, *United States Code*; his spouse or the unremarried surviving spouse if the marriage fulfills the requirements of §1304 of Title 38, *United States Code*; and unmarried dependent children; or

7. the alien is lawfully residing in the United States and is on active duty (other than for training) in the Armed Forces and his spouse or the unremarried surviving spouse, if the marriage fulfills the requirements of §1304 of Title 38, *United States Code*, and unmarried dependent children.

C. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:48687 et seq., P.L. 104-193, P. L. 104-208, and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Eligibility Determinations, LR 14:280 (May 1988), LR 14:438 (July 1988), amended by the Department of Social Services, Office of Family Support, LR 23:448 (April 1997), LR 23: §1143. **Income and Resources of Alien Sponsors**

A. In determining eligibility and benefit amount for an alien other than those identified in §1141.A.8 and 9, the income and resources of his/her sponsor and the sponsor's spouse must be considered. The income and resources of an alien sponsor and the sponsor's spouse shall not apply to benefits during a 12-month period for those aliens identified in §1141.A.8 and 9. After a 12-month period, only the income and resources of the batterer shall not apply if the alien demonstrates that such battery or cruelty has been recognized in an order of a judge or administrative law judge or a prior determination of the INS, and the agency determines that such battery or cruelty has a substantial connection to the need for benefits. A *sponsor* is defined as any person who executed an affidavit of support pursuant to §213A of the Immigration and Nationality Act on behalf of the alien.

B.1. The income and resources of the sponsor and the sponsor's spouse shall apply until the alien:

a. achieves United States citizenship through naturalization; or

b. has worked 40 qualifying SSA quarters of coverage, or can be credited with such qualifying quarters, and in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any federal means-tested public benefit during any such period. In determining the number of qualifying quarters of coverage an alien shall be credited with:

i. all of the qualifying quarters of coverage worked by a parent of such alien while the alien was under age 18; and

ii. all of the qualifying quarters worked by a spouse of such alien during their marriage, and the alien remains married to such spouse or such spouse is deceased.

2. No such qualifying quarter of coverage that is creditable under Title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien under §1143.B.1.b.i or ii if the parent or spouse of such alien received any federal means-tested public benefit (as provided under §403) during the period for which such qualifying quarter of coverage is so credited. Notwithstanding §6103 of the *Internal Revenue Code* of 1986, the commissioner of Social Security is authorized to disclose quarters of coverage information concerning an alien and an alien's spouse or parents to a government agency for the purposes of this title.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, P.L. 100-485 (§402) and 45 CFR 205-206,233-234, P.L. 104-193, P. L. 104-208, and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), amended by the Department of Social Services, Office of Family Support, LR 23:448 (April 1997), LR 23:

Madlyn B. Bagneris
Secretary

9710#035

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Food Stamps—Alien Eligibility (LAC 67:III.1994 and 1995)

The Department of Social Services, Office of Family Support has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Food Stamp Program. This emergency rule shall remain in effect for a period of 120 days.

Pursuant to provisions of Public Law 104-208, the United States' Omnibus Consolidated Appropriations Act of 1996, and Public Law 105-33, the Balanced Budget Act of 1997, a change in food stamp policy concerning the eligibility of certain aliens is required. This emergency rule is necessary to effect these mandated regulations to avoid sanctions or penalties which could be imposed by further delaying implementation.

Title 67 SOCIAL SERVICES

Part III. Office of Family Support Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households Subchapter K. Action on Households with Special Circumstances

§1994. Alien Eligibility

A.1. - 2. ...

3. an alien whose deportation is withheld under §243(h) of such ACT (as in effect immediately before effective date of §307 of division C of P.L. 104-208) or §241(b)(3) of such Act (as amended by §305(a) of division C of P.L. 104-208);

4. *Cuban* and *Haitian* entrants, as defined in §501(e) of the Refugee Education Assistance Act of 1980;

5. *Amerasian* immigrants admitted pursuant to §584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988.

B. ...

1. veterans who have met the minimum active duty service requirements of §5303 A(d) of Title 38, *United States Code*, who were honorably discharged for reasons other than alienage and their spouses or unremarried surviving spouses, if the marriage fulfills the requirements of §1304 of Title 38, *United States Code*, and unmarried dependent children;

2. active duty personnel (other than active duty for training) and their spouses or unremarried surviving spouses, if the marriage fulfills the requirements of §1304 of Title 38, *United States Code*, and unmarried dependent children;

3. ...

C. An alien and/or child of an alien or the alien parent of a child who has been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent consented to, or acquiesced in, such battery or cruelty is eligible if the agency providing the benefits determines there is a substantial connection between such battery or cruelty and the need for

benefits to be provided. The individual who has been battered or subjected to extreme cruelty must no longer reside in the same household with the individual who committed the battery or cruelty. Additionally, the alien must have been approved or have a petition pending which contains evidence sufficient to establish:

1. the status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of §204(a)(1)(A) of the INA; or

2. the classification pursuant to clause (ii) or (iii) of §204(a)(1)(B) of the INA; or

3. the suspension of deportation and adjustment of status pursuant to §244(a)(3) of the INA; or

4. the status as a spouse or child of a United States citizen pursuant to clause (i) of §204(a)(1)(A) of the INA, or classification pursuant to clause (i) of section 204(a)(1)(B) of the INA.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 104-208, and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 24:

§1995. Sponsored Aliens

The full amount of income and resources of an alien's sponsor and the sponsor's spouse are counted in determining the eligibility and allotment level of a sponsored alien until the alien becomes a citizen or has worked 40 qualifying quarters of Social Security coverage. These provisions do not apply to battered aliens, their children, or the alien parent of a battered child.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.11, P.L. 104-193, P.L. 104-208, and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 24:

Madlyn B. Bagneris
Secretary

9710#034

DECLARATION OF EMERGENCY

Department of Social Services Office of the Secretary and Office of Family Support

Child Care Assistance Program (LAC 67:I.101-107) (LAC 67:III.1181, 2913 and 5101-5109)

The Department of Social Services, Office of the Secretary and Office of Family Support exercises the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule. This emergency rule shall remain in effect for a period of 120 days or until publication of the final rule, whichever occurs first.

Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, empowered the state to consolidate all child care programs administered by the Department of Social Services into a single child care program. The program will be administered entirely through the Office of Family Support. This emergency rule proposes to consolidate the current Child Care Assistance Program, administered through the Office of the Secretary, with other existing child care regulations in the Family Independence Temporary Assistance Program, Transitional Child Care, and the Family Independence Work Program. Consolidation, therefore, requires repeal and revision of all LAC 67:I and III. Sections containing regulations which will now be promulgated in LAC 67:III.Subpart 12.

The Office of Family Support has submitted its Child Care State Plan to the governing federal agency to consolidate regulations effective October 1, 1997, and the federal fiscal year begins October 1. Therefore, an emergency rule is necessary to avoid sanctions or penalties which could be imposed by delaying the action.

Title 67

SOCIAL SERVICES

Part I. Office of the Secretary

Chapter 1. Reserved. (Previously Child Care Assistance Program)

§101. Eligibility Requirements

Repealed effective October 1, 1997.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, Parts 255 and 257, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1133 (October 1992), LR 18:1415 (December 1992), LR 19:1440 (November 1993), LR 20:459 (April 1994), LR 20:794 (July 1994), LR 20:899 (August 1994), LR 21:589 (June 1995), LR 23:527 (May 1997), repealed by the Office of the Secretary and Office of Family Support, LR 23:

§103. Funding Availability and Waiting Lists

Repealed effective October 1, 1997.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and Parts 255 and 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1269 (November 1992), LR 19:1441 (November 1993), LR 20:460 (March 1994), LR 20:900 (August 1994), LR 21:839 (August 1995), repealed by the Office of the Secretary and Office of Family Support, LR 23:

§105. Child Care Providers

Repealed effective October 1, 1997.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1269 (November 1992), LR 19:659 (May 1993), LR 19:784 (June 1993), LR 19:1034 (August 1993), LR 19:695 (November 1993), LR 20:459 (April 1994), LR 21:839 (August 1995), repealed by the Office of the Secretary and Office of Family Support, LR 23:

§107. Payment

Repealed effective October 1, 1997.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:1269 (November 1992),

amended LR 19:695 (November 1993), LR 20:459 (April 1994), LR 21:839 (August 1995), repealed by the Office of the Secretary and Office of Family Support, LR 23:

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program

Chapter 11. Application, Eligibility, and Furnishing Assistance

Subchapter E. Transitional Child Care Assistance

§1181. Eligibility, Fees, and Payments

Repealed effective October 1, 1997.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq. and 45 CFR Parts 255 and 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:238 (March 1990), amended by the Department of Social Services, Office of Family Support, LR 18:244 (March 1992), LR 18:687 (July 1992), LR 18:1268 (November 1992), repealed by the Office of the Secretary and Office of Family Support, LR 23:

Subpart 5. Family Independence Work Program

Chapter 29. Organization

Subchapter C. Activities and Services

§2913. Support Services

Support services include child care, transportation, and other employment-related expenses designed to eliminate or moderate the most common barriers to employment.

1. Effective October 1, 1997, child care support services and payments are administered through the Child Care Assistance Program, LAC 67:III. Subpart 12.

2 - 3. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR Parts 250, 255, R.S. 46:456 and 457, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:309 (March 1991), amended LR 17:388 (April 1991), LR 18:244 (March 1992), LR 18:687 (July 1992), LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 19:504 (April 1993), LR 20:793 (July 1994), LR 23:451 (April 1997), amended by the Office of the Secretary and Office of Family Support, LR 23:

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program

§5101. Authority

The Child Care Assistance Program is established effective October 1, 1997 and administered under the authority of state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary and Office of Family Support, LR 23:

§5103. Conditions of Eligibility

A. Family Independence Temporary Assistance Program (FITAP) recipients who are satisfactorily participating in the Family Independence Work Program, as determined by the case manager, are eligible.

B. Low-income families not receiving FITAP cash assistance, including former FITAP recipients who are given priority consideration and guaranteed entry into the child care system for 24 months from termination of the cash payment, must meet the following eligibility criteria:

1. A household consists of a case head, that person's spouse, all children under the age of 18 who are dependent on the case head and/or spouse, and the parent(s) of dependent children if the parent(s) lives in the home. The household must reside in Louisiana to be eligible for child care assistance.

2. The household includes a child in need of child care services who is under age 13, or age 13 to age 18 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or under court supervision.

3. The child must customarily reside at least one-half of the time with the person who is applying for child care services and who is employed or attending a job training or educational program that is legally authorized by the state. The case head, that person's spouse, and any parents of dependent children, if the parent(s) lives in the household, must be employed or in training, unless disabled as established by receipt of SSA, SSI, worker's compensation, or other disability benefits.

4. Household income does not exceed 85 percent of the state median income for a household of the same size. *Income* is defined as the gross earnings of the case head, that person's spouse, and any parents of dependent children, if the parent(s) lives in the household, from all sources of employment, and the following types of unearned income: Social Security benefits, veterans' benefits, retirement benefits, disability benefits, child support and/or alimony, unemployment compensation benefits, worker's compensation, and Supplemental Security Income of all household members.

5. Noncitizens who are *qualified aliens*, as defined in LAC 67:III.1141 and 1143, may be eligible.

6. The family requests child care services, provides the information necessary for determining eligibility and benefit amount, and meets appropriate application requirements established by the state.

7. Applicants must provide verification to establish eligibility. Verification shall include Social Security cards for all household members, birth certificates for all children, proof of all household income, and proof of the hours of employment or training for which child care services are required.

C. Eligible cases are assigned a certification period of up to 12 months. The household is required to report any changes that could affect eligibility or benefit amount within 10 days of knowledge of the change. Failure to report a change that affects eligibility or benefit amount can result in action to recover ineligible benefits.

D. Recipients will be disqualified in all cases in which the recipient has received child care benefits for which he is ineligible; the unrecovered amount of such benefits is at least \$200; and the recovery account was established after September 30, 1994. The disqualification shall be for a period of months equal to the unrecovered amount divided by the total estimated monthly benefit amount for which the household would otherwise be eligible. If the recipient is currently receiving benefits, the case shall be closed and the recipient may not reapply during the disqualification period. If the recipient is not receiving benefits and subsequently

reapplies and is found eligible, the application is denied. The recipient may not be certified during the disqualification period.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary and Office of Family Support, LR 23:

§5105. Funding Availability

Louisiana's share of the national total of available funds for child care programs is based on factors determined by federal law and regulation. Funds are appropriated by Congress and allocated on an annual basis. The number of children who can be served by the Child Care Assistance Program is limited by the amount of funding available.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary and Office of Family Support, LR 23:

§5107. Child Care Providers

A. The parent or guardian is assured freedom of choice in selecting from a variety of child care providers, including center-based child care, family day care homes, in-home child care, and public and nonpublic BESE-regulated schools which operate kindergarten, prekindergarten, and/or before and after school care programs. The parent or guardian will be afforded the freedom to select the child care provider of his choice.

B. Family day care home providers must verify that they are at least 18 years of age, provide verification of Social Security number and residence, and meet all registration requirements to be eligible for participation. Family day care home providers who provide child care only to children related to them need only apply for registration as family day care homes, but must meet registration requirements within one year.

C. In-home child care providers must verify that they are at least 18 years of age and provide verification of their Social Security number and residence to be eligible for participation.

D. Under no circumstances can the following be considered eligible child care providers:

1. members of the child's household; or
2. the child's parent or guardian, regardless of whether that individual lives with the child; or
3. Class B child care centers; or
4. persons who have been convicted of a felony or of an offense involving a juvenile victim or who reside with a person who has been convicted of such an offense.

E. Providers may be disqualified from further participation in the program if the department determines that a condition exists which threatens the physical or emotional health or safety of any child in care, as, for example, where a complaint of child abuse or neglect against a provider or other person with access to children in care has been validated by authorities.

Providers shall certify that neither they, nor any person employed by or residing with them, has been the subject of a validated complaint of child abuse or neglect; nor have they, or any person employed by or residing with them, been convicted of a felony or of any offense involving a juvenile

victim. They shall further certify that they have requested a criminal background check from the Louisiana Office of State Police to verify this information, with respect to the provider and employees, and shall submit proof of having done so before being certified as an eligible provider.

F. A quality incentive will be paid to each child care provider who achieves and maintains National Association for the Education of Young Children (NAEYC) accreditation. The incentive will be paid once each calendar quarter, and will be equal to 10 percent of all payments received by that provider from the certificate portion of the Child Care and Development Block Grant for services provided during the prior calendar quarter.

G. Funds in the form of scholarships will be granted to those child care providers who demonstrate an intention to attain appropriate training in Early Childhood Development.

H. The Child Care Assistance Program will provide cash assistance to child care providers to pay for repairs and improvements that are necessary to comply with DSS licensing or registration requirements.

1. The program will pay for one-half of the cost of such a repair or improvement, up to the following maximums, which are based on the capacity of the child care provider:

Number of Children	Maximum Grant
Up to 20	\$ 500
21-40	\$1,000
41-60	\$1,500
61-80	\$2,000
81-100	\$2,500
101-120	\$3,000
Over 120	\$3,500

2. A provider can receive no more than one such grant in any state fiscal year. To apply, the provider must submit an application form, along with verification that the repair or improvement is needed to meet DSS licensing or registration requirements and two written estimates of the cost of the repair or improvement.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary and Office of Family Support, LR 23:

§5109. Payment

A. Each nonFITAP household shall contribute toward the payment of child care costs based on the size of the household and household income. The sliding fee scale is as follows:

SLIDING FEE SCALE FOR CHILD CARE ASSISTANCE RECIPIENTS

Number in Household	2	3	4	DSS Percent	Client Percent
Monthly Household Income	0-884	0-1110	0-1337	100%	0%
	885-1162	1111-1448	1338-1736	90%	10%
	1163-1440	1449-1787	1737-2136	70%	30%
	1441-1718	1788-2126	2137-2535	50%	50%
	1719-1996	2127-2465	2536-2935	30%	70%
	Above 1996	Above 2465	Above 2935	0%	100%

Number in Household	5	6	7	DSS Percent	Client Percent
Monthly Household Income	0-1564	0-1790	0-2017	100%	0%
	1565-2024	1791-2311	2018-2503	90%	10%
	2025-2484	2312-2832	2504-2989	70%	30%
	2485-2944	2833-3353	2990-3475	50%	50%
	2945-3405	3354-3874	3476-3962	30%	70%
	Above 3405	Above 3874	Above 3962	0%	100%

Number in Household	8	9	10	DSS Percent	Client Percent
Monthly Household Income	0-2244	0-2470	0-2697	100%	0%
	2245-2695	2471-2887	2698-3079	90%	10%
	2696-3147	2888-3304	3080-3462	70%	30%
	3148-3598	3305-3721	3463-3844	50%	50%
	3599-4050	3722-4139	3845-4227	30%	70%
	Above 4050	Above 4139	Above 4227	0%	100%

Number in Household	11	DSS Percent	Client Percent
Monthly Household Income	0-2924	100%	0%
	2925-3271	90%	10%
	3272-3619	70%	30%
	3620-3967	50%	50%
	3968-4315	30%	70%
	Above 4315	0%	100%

B. The number of hours authorized is based on the lesser of the number of hours the child is actually in care; or the number of hours the case head, that person's spouse or parent with the least number of hours of work, training, or school needs child care in order to work or attend a job training or educational program; plus allowable commuting time.

C. Payments are based on the number of hours, as determined in §5109.B, paid according to the provider's actual charges, up to the following Standard Maximum Rate Schedule:

CENTER-BASED CARE

	Regular Care	Special Needs Care
Full Day	\$13.00	\$16.25
Half Day	\$6.50	\$8.13
Quarter Day	\$3.25	\$4.06

ALL OTHER CATEGORIES OF CARE UNDER AGE 1

	Regular Care	Special Needs Care
Full Day	\$11.00	\$13.75
Half Day	\$5.50	\$6.88
Quarter Day	\$2.75	\$3.44

AGE 1 AND OLDER

	Regular Care	Special Needs Care
Full Day	\$10.00	\$12.50
Half Day	\$5.00	\$6.25
Quarter Day	\$2.50	\$3.13

D. The payment amount for each month is a percentage, as shown in §5109.A, multiplied by the number of authorized hours and the standard rate, as determined in §5109.B and C.

E. Payment, as calculated in §5109.D, is made on a monthly basis, following the month in which services are provided, to the eligible child care provider selected by the parent as defined in §5107.

F. Payment will not be made for more than 10 days of absence by a child in a month. Payment will not be made for an extended closure by a provider of more than five consecutive days in any calendar month.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary and Office of Family Support, LR 23:

Madlyn B. Bagneris
Secretary

9710#036

EMERGENCY RULE WITHDRAWAL

**Department of Transportation and Development
Office of the Secretary
Crescent City Connection Division**

Greater New Orleans Mississippi River
Bridge Number 2 Transit Lanes (LAC 70:I.515)

Effective September 29, 1997, The Department of Transportation and Development, Office of the Secretary, Crescent City Connection Division withdraws the emergency rule applicable to transit lanes on the Crescent City Connection Bridge Number 2.

This emergency rule became effective September 20, 1997, and was published on pages 1105-1106 of the September 1997 *Louisiana Register*.

Frank M. Denton
Secretary

9710#031

DECLARATION OF EMERGENCY

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

Administrative Policy—Retirees with Medicare

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to amend its administrative policy relative to premiums for retirees with Medicare.

This emergency rule shall become effective on October 29, 1997, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend its administrative policy to provide that, for those employees who retire on or after July 1, 1997, the reduced premium rate for retirees with Medicare will be applied only to those who are enrolled for Medicare Parts A and B. Failure to adopt these amendments on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the administrative policy of the State Employees Group Benefits Program is hereby amended to provide as follows:

Administrative Policy—Reduced Premium Rates for Retirees with Medicare. For all employees who retire on or after July 1, 1997, the reduced premium rate for retirees with Medicare will be applied only with respect to those persons who are enrolled for Medicare Parts A and B.

James R. Plaisance
Executive Director

9710#075

DECLARATION OF EMERGENCY

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

Plan Document—Catastrophic Illness

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to amend the Plan Document of Benefits.

This emergency rule shall become effective on October 29, 1997, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend provisions of the Plan Document relative to the Catastrophic Illness Endorsement to provide for annual restoration of benefits. Failure to adopt these amendments on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend the Catastrophic Illness Endorsement provision in the Schedule of Benefits on page 6 of the Plan Document, to read as follows:

Catastrophic Illness Endorsement (Optional)

All eligible expenses are payable at 100 percent following diagnosis of any covered disease.

Maximums for any one disease or combination thereof per lifetime:

Option 1	Option 2
\$10,000 Maximum	\$5,000 Maximum
Automatic Annual Restoration, up to \$1,000	Automatic Annual Restoration, up to \$500

Amend Article 3, Section VI, by adding a new Subsection, designated as Subsection G, to read as follows:

G. Restoration of Catastrophic Illness Endorsement Benefits. On and after January 1, 1997, Catastrophic Illness Endorsement benefits shall be restored by the plan each January 1, up to the maximum amount of the annual restoration as stated in the Schedule of Benefits, provided that such restoration will not increase the lifetime maximum Catastrophic Illness Endorsement benefits above that provided in the Schedule of Benefits.

James R. Plaisance
Executive Director

9710#074

DECLARATION OF EMERGENCY

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

Plan Document—Point of Service PPO Regions

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to amend the Plan Document of Benefits.

This emergency rule shall become effective on October 29, 1997, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend provisions of the Plan Document relative to point of service regions for Preferred Provider Organizations (PPOs) to coincide with Health Maintenance Organization (HMO) service areas. Failure to adopt these amendments on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section X, Subsection A, Paragraph 1, to read as follows:

B. Point of Service PPO Regions (Areas)

1. The following regions, designated by United States Postal Service ZIP codes, are used to determine whether there is a PPO provider in the same area as the point of service:

Region 1	Zip Codes 70000 through 70199
Region 2	Zip Codes 70300 through 70399
Region 3	Zip Codes 70400 through 70499
Region 4	Zip Codes 70500 through 70599
Region 5	Zip Codes 70600 through 70699
Region 6	Zip Codes 70700 through 70899
Region 7	Zip Codes 71300 through 71499
Region 8	Zip Codes 71000 through 71199
Region 9	Zip Codes 71200 through 71299

James R. Plaisance
Executive Director

9710#073

DECLARATION OF EMERGENCY

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

Plan Document—Pre-Existing Condition for Overdue Application; and Special Enrollment

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to amend the Plan Document of Benefits.

The board finds that it is necessary to amend the Plan Document relative to the pre-existing condition exclusion for overdue applicants and to provide for special enrollments in order to implement changes included in the Health Insurance Portability and Accountability Act of 1996 (U.S. Public Law 104-191), effective July 1, 1997, and the rules and regulations promulgated pursuant thereto, in order to avoid sanctions or penalties from the United States.

These amendments are effective October 29, 1997, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amendment Number 1

Amend the introduction to the Plan Document on page 3, after "Group Coverage: Self-insured and self-funded comprehensive medical benefits plan" by inserting the following on the next line:

Plan Year: July 1 - June 30

Amendment Number 2

Amend Article 1, Section I, by adding two new Subsections, designated as Subsections OO and PP, to read as follows:

OO. Group Health Plan—a plan (including a self-insured plan) of, or contributed to by, an employer

(including a self-employed person) or employee organization to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families.

PP. *Health Insurance Coverage*—benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or HMO contract offered by a health insurance issuer. However, benefits described in Section 54.9804-1(b)(2) of the rules promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, are not treated as benefits consisting of medical care.

Amendment Number 3

Amend Article 1, Section II, Subsection B, Paragraph 2, to read as follows:

2. *Effective Date of Coverage.* Retiree coverage will be effective on the first of the month following the date of retirement, provided the employee and employer have agreed to make and are making the required contributions. Retirees shall not be eligible for coverage as overdue applicants or as special enrollees.

Amendment Number 4

Amend Article 1, Section II, Subsection D to read as follows:

D. *Pre-Existing Condition - Overdue Application.* The terms of the following paragraphs shall apply to all eligible employees who apply for coverage after 30 days from the date the employee became eligible for coverage and to all eligible dependents of employees and retirees for whom the application for coverage was not completed within 30 days from the date acquired.

1. ...

2. ...

3. Medical expenses incurred during the first 12 months that coverage for the employee and/or dependent is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the six-month period immediately prior to the effective date of such coverage. In no event will the provisions of this Paragraph apply to pregnancy.

4. If the covered person was previously covered under a group health plan, health insurance coverage, Part A or B of Title XVII of the Social Security Act (Medicare), Title XIX of the Social Security Act (Medicaid) other than coverage consisting solely of benefits under Section 1928 thereof, or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the rules and regulations promulgated pursuant thereto, the duration of the prior coverage will be credited against the initial 12-month period used by the program to exclude benefits for a pre-existing condition provided, however, that termination under the prior coverage occurred within 63 days of the date of enrollment for coverage under the program.

Amendment Number 5

Amend Article 1, Section II, by inserting a new Subsection E to read as follows, and redesignating current Subsections E, F, and G as Subsections F, H, and I, respectively:

E. Special Enrollments. In accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the regulations promulgated pursuant thereto, certain eligible persons for whom coverage was previously declined, and who would otherwise be considered overdue applicants, may enroll under the following circumstances, terms, and conditions for special enrollments:

1. Loss of Other Coverage. Special enrollment will be permitted for employees or dependents for whom coverage was previously declined because such employees or dependents had other coverage which has terminated due to:

a. loss of eligibility through separation, divorce, termination of employment, reduction in hours, or death of the plan participant; or

b. cessation of employer contributions for the other coverage, unless such employer contributions were ceased for cause or for failure of the individual participant; or

c. the employee or dependent having had COBRA continuation coverage under another plan, and the COBRA continuation coverage has been exhausted, as provided in HIPAA.

2. After Acquired Dependents. Special enrollment will be permitted for employees or dependents for whom coverage was previously declined when the employee acquires a new dependent by marriage, birth, adoption, or placement for adoption.

3. Special enrollment application must be made within 30 days of the termination date of the prior coverage or the date the new dependent is acquired. Persons eligible for special enrollment for whom application is made more than 30 days after eligibility will be considered overdue applicants, subject to the provisions of Article 1, Section II, Subsection D above.

4. The effective date of coverage shall be the first of the month following the date of the receipt by the State Employees Group Benefits Program of all required forms for enrollment.

5. The program will require that all special enrollment applicants complete a statement of physical condition form and sign an acknowledgment of pre-existing condition form.

6. Medical expenses incurred during the first 12 months that coverage for the employee and/or dependent added through special enrollment is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the six-month period immediately prior to the effective date of such coverage. In no event will the provisions of this Paragraph apply to pregnancy.

7. If the employee and/or dependent added through special enrollment was previously covered under a group health plan, health insurance coverage, Part A or B of

Title XVII of the Social Security Act (Medicare), Title XIX of the Social Security Act (Medicaid) other than coverage consisting solely of benefits under Section 1928 thereof, or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the rules and regulations promulgated pursuant thereto, the duration of the prior coverage will be credited against the initial 12-month period used by the program to exclude benefits for a pre-existing condition provided, however, that termination under the prior coverage occurred within 63 days of the date of coverage under the program.

James R. Plaisance
Executive Director

9710#071

DECLARATION OF EMERGENCY

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

Plan Document—Prescription Drug

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to amend the Plan Document of Benefits.

This emergency rule shall become effective on October 29, 1997, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend provisions of the Plan Document relative to prescription drug benefits to provide a minimum copayment of \$12 for brand name drugs. Failure to adopt these amendments on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend the Prescription Drug provision under "Percentage Payable after Satisfaction of Applicable Deductibles" in the Schedule of Benefits on page 5 of the Plan Document, to read as follows:

Prescription Drugs (subject to a minimum copayment of \$3 per prescription for generic drugs, and \$12 per prescription for brand name drugs, not to exceed the maximum allowable charges):

- 90 percent Network;
- 50 percent nonNetwork, in state;
- 80 percent nonNetwork, out of state.

* * *

Amend Article 3, Section XI, Subsections A and D to read as follows:

XI. Prescription Drug Benefits

A. Upon presentation of the Group Benefits Program Identification card at a network pharmacy, the Plan Member shall be responsible for payment of 10 percent of eligible charges for the drug, with a minimum copayment of \$3 per prescription when a generic drug is dispensed and \$12 per prescription when a brand name drug is dispensed, provided, however, that in no event will a combination of payments made by the prescription benefits management firm and the Plan Member exceed the actual charge by the pharmacy for the drug.

D. Regardless of where the prescription drug is obtained, eligible expenses for brand name drugs shall be limited to the prescription benefits management firm's maximum allowable charge and eligible expenses for generic drugs shall be limited to the prescription benefits management firm's generic maximum allowable charge.

James R. Plaisance
Executive Director

9710#072

DECLARATION OF EMERGENCY

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

Definition of Terminate (LAC 58:I.101)

Pursuant to the authority granted by R.S. 11:515, vesting the board of trustees with the responsibility for administration of the Louisiana State Employees' Retirement System ("LASERS") and granting the power to adopt and promulgate rules with respect thereto, the board of trustees and the executive director hereby invoke the emergency rule provisions of R.S. 49:953(B), amending the rules regarding procedures for the emergency refund of employee contributions.

The board finds it necessary to amend these rules to allow members of LASERS to be more specifically informed as to what constitutes termination from state service. The current definition is too ambiguous and could be interpreted to prevent rehired LASERS retirees from accessing funds from the Deferred Retirement Option Plan (DROP). Failure to adopt these emergency rules could impair the agencies' ability to hire persons with the requisite skill and knowledge required.

The rules take effect immediately and shall remain in effect 120 days or until adopted through the normal promulgation process, whichever occurs first.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement System (LASERS)

Chapter 1. General Provisions

§101. Definitions

Terminate—to completely cease employment with the state of Louisiana for a period of not less than 30 consecutive days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:

James O. Wood
Executive Director

9710#021

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Office of the Secretary
and
Wildlife and Fisheries Commission**

Hunting Seasons, Farm-Raised
White-Tailed Deer and Exotics

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act, and under authority of *Louisiana Constitution*, Article IX, Section 7, R.S. 36:601 et seq., and R.S. 56:115, 171 et seq., and 651 et seq., the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopt the following emergency rule:

A declaration of emergency is necessary to allow for hunting of deer in enclosed areas. This action is in response to rules and regulations developed by the Louisiana Department of Agriculture and Forestry (LDAF). While LDAF has the authority to regulate "alternative livestock," LDAF rules also impact white-tailed deer. The Wildlife and Fisheries Commission is vested with the authority to regulate hunting seasons; thus the need for the commission to establish hunting seasons for farm-raised white-tailed deer and exotics if this program is to proceed.

The provisions of this declaration of emergency governing season dates, shooting hours, and methods of take shall be subject to the penalties contained in R.S. 56:116.3.

For purposes of this declaration of emergency, the term "exotic" shall mean any animal of the family *Bovidae* and *Cervidae* which is not indigenous to Louisiana.

The season dates, weapons, and shooting hours are effective October 2, 1997 and extend for 120 days or until formal rulemaking is completed, whichever occurs first.

**Hunting Seasons for Farm-Raised
White-Tailed Deer and Exotics**

HUNTING SEASONS:

Farm-raised white-tailed deer—October 1 through January 31; subject to a limit of not more than 10 farm-raising licenses; provided that alteration of this limit requires approval of this commission.

Exotics—January 1 through December 31.

SHOOTING HOURS: One half-hour before sunrise to one half-hour after sunset.

The following shall be legal methods of take for farm-raised white-tailed deer and exotics:

1. longbow (including compound bow) and arrow;
2. shotguns not larger than a 10 gauge fired from the shoulder without a rest, loaded with buckshot or rifled slug;
3. handguns and rifles no smaller than 22 caliber center fire; or
4. muzzle-loading rifles or pistols, 44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only.

Daniel J. Babin
Chairman

9710#043

DECLARATION OF EMERGENCY

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

Commercial Red Snapper Closure

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act; R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons; R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish; and the authority given to the secretary of the department by the commission in its resolution of September 4, 1997 setting the September 1997 commercial red snapper season, to declare a closed season when he is informed that the commercial red snapper quota for the Gulf of Mexico has been filled or projected to be filled, the secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 12 noon, October 6, 1997, the commercial fishery for red snapper in Louisiana waters will close and remain closed until further notice. Nothing herein shall preclude the legal harvest of red snapper by legally licensed recreational fishermen. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell, or attempt to purchase, barter, trade, or sell red snapper. Effective with the closure, no person shall possess red snapper in excess of a daily bag limit. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure, providing that all

commercial dealers possessing red snapper taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.4.

The secretary has been notified by the National Marine Fisheries Service that the gulfwide commercial red snapper quota has been reached, and the season closure is necessary to prevent overfishing of this species.

James H. Jenkins, Jr.
Secretary

9710#044

DECLARATION OF EMERGENCY

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

Mullet Harvest—Proof of Income (LAC 76:VII.343)

The Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, in accordance with the Administrative Procedure Act, R.S. 49:953(B), amends its Mullet Harvest Rules, through emergency rule procedures.

Currently, under LAC 76, the only acceptable method an applicant can use to provide proof of income eligibility when applying for a mullet permit is a certified Internal Revenue Service (IRS) copy of his federal income tax return. Many fishermen are having difficulties in obtaining a certified copy of their federal tax returns and have received letters from the IRS stating that their returns are unavailable at this time. As a result of this, the commission has adopted additional acceptable alternative methods to prove income eligibility. These include: an IRS-stamped transcript, along with a copy of the applicant's income tax return; or a copy of the applicant's federal income tax return that has been filed at the local IRS and stamped "received". Both additional methods also require a signed IRS cover letter certifying that the information attached reflects or is a copy of the original federal tax return filed by the applicant.

A declaration of emergency is necessary, since the mullet season begins the third Monday of October, and there is insufficient time to adopt this change through the normal process of the Administrative Procedure Act.

This declaration of emergency is effective October 2, 1997 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§343. Harvest of Mullet

E. Permits

2. No person shall be issued a license or permit for the commercial taking of mullet unless that person meets all of the following requirements:

a. the person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993;

b. the person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant, using any of the methods listed below:

i. Method 1. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return, including all attachments (e.g., Schedule C of Federal Form 1040, Form W-2, etc.), which has been certified by the Internal Revenue Service (IRS);

ii. Method 2. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return, including all attachments (e.g., Schedule C of Federal Form 1040, Form W-2, etc.), which has been filed and stamped "received" at a local IRS office, accompanied by a signed cover letter acknowledging receipt by the IRS;

iii. Method 3. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a signed copy of his federal tax return, including all attachments (e.g., Schedule C of Federal Form 1040, Form W-2, etc.) along with an IRS-stamped transcript and IRS-signed cover letter. Transcripts are available at local IRS offices;

c. the Socioeconomic Section of the Department of Wildlife and Fisheries, Office of Management and Finance will review the submitted tax return information and determine applicant's eligibility as defined by R.S. 56:333(D)(1)(b);

d. the person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:325.1 and R.S. 56:333.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:1420 (December 1992), amended LR 21:37 (January 1995), LR 22:236 (March 1996), LR 23:

Daniel J. Babin
Chairman

9710#045

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Saltwater Commercial Rod and Reel License—Proof of Income (LAC 76:VII.405)

The Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, in accordance with the Administrative Procedure Act, R.S. 49:953(B), amends its Saltwater Commercial Rod and Reel License Rules, through emergency rule procedures.

Currently, under LAC 76, the only acceptable method an applicant can use to provide proof of income eligibility when applying for a rod and reel license is a certified Internal Revenue Service (IRS) copy of his federal income tax return. Many fishermen are having difficulties in obtaining a certified copy of their federal tax returns and have received letters from the IRS stating that their returns are unavailable at this time. As a result of this, the commission has adopted additional acceptable alternative methods to prove income eligibility. These include: an IRS-stamped transcript, along with a copy of the applicant's income tax return or a copy of the applicant's federal income tax return that has been filed at the local IRS and stamped "Received." Both additional methods also require a signed IRS cover letter certifying that the information attached reflects, or is a copy of, the original federal tax return filed by the applicant. In addition, both methods require a copy of the applicant's state income tax return or a notarized affidavit by the applicant stating that he was not required to file a state return for that year.

A declaration of emergency is necessary, since the rod and reel is the only gear that can be used to commercially harvest spotted sea trout beginning on the third Monday of November, and there is insufficient time to adopt this change through the normal process of the Administrative Procedure Act.

This declaration of emergency is effective October 2, 1997 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fishing and Other Aquatic Life

Chapter 4. License and License Fees

§405. Saltwater Commercial Rod and Reel License;

Proof of Income

A. Each applicant shall have derived more than 50 percent of his earned income from the legal capture and sale of seafood species in at least two of the three years, 1995, 1994, and 1993.

B. Proof of such income for at least two of the three years 1995, 1994, and 1993 shall be provided by the applicant, using any of the methods listed below:

1. Method 1. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return, including all attachments (e.g., Schedule C of Federal Form 1040, Form W-2, etc.), which has been certified by the Internal Revenue Service (IRS) and a copy of his state tax return, provided applicant was required to file.

2. Method 2. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return, including all attachments (e.g., Schedule C of Federal Form 1040, Form W-2, etc.), which has been filed and stamped "Received" at a local IRS office, accompanied by a signed cover letter acknowledging receipt by the IRS and a copy of his state tax return, provided applicant was required to file.

3. Method 3. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a signed copy of his federal tax return including all attachments (e.g., Schedule

C of Federal Form 1040, Form W-2, etc.) along with an IRS-stamped transcript and IRS-signed cover letter and a copy of his state tax return, provided applicant was required to file. Transcripts are available at local IRS offices.

C. The Socioeconomic Section of the Department of Wildlife and Fisheries, Office of Management and Finance, will review the submitted tax return information and determine applicant's eligibility, as defined by R.S. 56:305B(14)(b).

D. If the applicant was not required to file a state tax return, the applicant shall provide a notarized affidavit certifying that he was not required to file a state tax return.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:13.1.D.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:237 (March 1996), amended LR 23:

Daniel J. Babin
Chairman

9710#046

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spotted Sea Trout Management Measures—Proof of Income (LAC 76:VII.341)

The Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, in accordance with the Administrative Procedure Act, R.S. 49:953(B), amends its Spotted Sea Trout Management Rules, through emergency rule procedures:

Currently, under LAC 76, the only acceptable method an applicant can use to provide proof of income eligibility when applying for a spotted sea trout permit is a certified Internal Revenue Service (IRS) copy of his federal income tax return. Many fishermen are having difficulties in obtaining a certified copy of their federal tax returns and have received letters from the IRS stating that their returns are unavailable at this time. As a result of this, the commission has adopted additional acceptable alternative methods to prove income eligibility. These include an IRS-stamped transcript, along with a copy of the applicant's income tax return; or a copy of the applicant's federal income tax return that has been filed at the local IRS office and stamped "Received." Both additional methods also require a signed IRS cover letter certifying that the information attached reflects, or is a copy of, the original federal tax return filed by the applicant.

A declaration of emergency is necessary, since the spotted sea trout season is scheduled to begin the third Monday of November, and there is insufficient time to adopt this change through the normal process of the Administrative Procedure Act.

This declaration of emergency is effective October 2, 1997 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§341. Spotted Sea Trout Management Measures

A. Commercial Season; Quota; Permits

* * *

4. Permits

* * *

b. No person shall be issued a license or permit for the commercial taking of spotted sea trout unless that person meets all of the following requirements:

i. the person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993;

ii. the person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant using any of the methods listed below:

(a). Method 1. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return, including all attachments (e.g., Schedule C of Federal Form 1040, Form W-2, etc.), which has been certified by the Internal Revenue Service (IRS);

(b). Method 2. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (e.g., Schedule C of Federal Form 1040, Form W-2, etc.), which has been filed and stamped "Received" at a local IRS office accompanied by a signed cover letter acknowledging receipt by the IRS;

(c). Method 3. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a signed copy of his federal tax return including all attachments (e.g., Schedule C of Federal Form 1040, Form W-2, etc.) along with an IRS stamped transcript and IRS signed cover letter. Transcripts are available at local IRS offices;

iii. the Socioeconomic Section of the Department of Wildlife and Fisheries, Office of Management and Finance, will review the submitted tax return information and determine applicant's eligibility as defined by R.S. 56:325.3 D(1)(b);

iv. the person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C);

v. the applicant shall not have been convicted of any fishery-related violations that constitute a class three or greater violation.

c. No person shall receive more than one permit or license to commercially take spotted sea trout.

d. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take spotted sea trout and shall be forever barred from receiving any permit or license to commercially take spotted sea trout.

5. Each spotted sea trout permit holder shall, on or before the tenth of each month of the open season, submit an information return to the department on forms provided or

approved for this purpose, including the pounds of spotted sea trout taken commercially during the preceding month and the commercial dealers to whom these were sold, if sold. Monthly reports shall be filed even if catch or effort is zero.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a); 56:325.3; and 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 23:

Daniel J. Babin
Chairman

9710#047

Rules

RULE

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

Seed Law (LAC 7:XIII.Chapter 1)

Editor's Note: All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

The Department of Agriculture and Forestry, Seed Commission hereby amends rules relative to the Louisiana Seed Law. These rules are in accordance with R.S. 49:950 et seq., the Administrative Procedure Act and R.S. 3:1433. These rules correct technical and typographical errors and change the facility to be used for quarantine of sugar cane foundation stock.

**Title 7
AGRICULTURE AND ANIMALS
Part XIII. Seeds**

**Chapter 1. Louisiana Seed Law
Subchapter A. Enforcement of Louisiana Seed Law
§109. List and Limitations of Noxious Weed Seed**

Name	Limitations
1. Field Bindweed (<i>Convolvulus arvensis</i>)	Prohibited
2. Hedge Bindweed (<i>Convolvulus sepium</i>)	Prohibited
3. Nutgrass (<i>Cyperus esculentus</i> , C. rotundus)	Prohibited
4. Itchgrass (<i>Rottboellia exaltata</i> L., R. cochinchinensis)	Prohibited
5. Balloon Vine (<i>Cardiospermum halicacabum</i>)	Prohibited
6. Cocklebur (<i>Xanthium</i> spp.)	5 per lb.
7. Spearhead (<i>Rhynchospora</i> spp.)	5 per lb.
8. Purple Moonflower (<i>Ipomoea turbinata</i>)	9 per lb.
9. Red Rice (<i>Oryza sativa</i> var.)	9 per lb.
10. Wild Onion and/or Wild Garlic (<i>Allium</i> spp.)	9 per lb.
11. Canada Thistle (<i>Cirsium arvense</i>)	100 per lb.
12. Dodder (<i>Cuscuta</i> spp.)	100 per lb.

13. Johnsongrass (<i>Sorghum halepense</i>)	100 per lb.
14. Quackgrass (<i>Agropyron repens</i>)	100 per lb.
15. Russian Knapweed (<i>Centaurea repens</i>)	100 per lb.
16. Blueweed, Texas (<i>Helianthus ciliaris</i>)	200 per lb.
17. Bermuda Grass (<i>Cynodon dactylon</i>)	300 per lb.
18. Bracted Plantain (<i>Plantago aristata</i>)	300 per lb.
19. Buckhorn Plantain (<i>Plantago lanceolata</i>)	300 per lb.
20. Cheat (<i>Bromus secalinus</i>)	300 per lb.
21. Hairy Chess (<i>Bromus commutatus</i>)	300 per lb.
22. Corncockle (<i>Agrostemma githago</i>)	300 per lb.
23. Darnel (<i>Lolium temulentum</i>)	300 per lb.
24. Dock (<i>Rumex</i> spp.)	300 per lb.
25. Horsenettle (<i>Solanum carolinense</i>)	300 per lb.
26. Purple Nightshade (<i>Solanum elaeagnifolium</i>)	300 per lb.
27. Sheep Sorrel (<i>Rumex acetosella</i>)	300 per lb.
28. Morning Glory (<i>Ipomoea</i> spp.)	18 per lb.
29. Wild Poinsettia (<i>Euphorbia heterophylla</i> , E. Dentata)	18 per lb.
30. Wild Mustard and Wild Turnips (<i>Brassica</i> spp.)	300 per lb.
31. Hemp Sesbania, Coffeebean, Tall Indigo (<i>Sesbania exaltata</i>)	300 per lb.
32. Curly Indigo (<i>Aeschynomene virginica</i>)	300 per lb.
33. Mexican Weed (<i>Caperonia castaneaefolia</i>)	300 per lb.
Sum of total noxious weed (Subject to limitations above)	500 per lb.

Limitations on noxious and prohibited weeds are listed on individual certified crop seed regulations. Noxious weed seed tolerance of one for regulatory action on certified seed being offered for sale in Louisiana for those noxious weed seed which are prohibited by the Louisiana Certified Seed Regulations for the specific seed kind in question.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended LR 5:96 (May 1979), LR 7:285 (June 1981), LR 8:563 (November 1982), LR 9:206 (April 1983), repealed and readopted LR 12:825 (December 1986), amended LR 14:605 (September 1988), LR 23:1282 (October 1997).

Subchapter B. General Seed Certification Requirements

§131. Application Deadlines

- A. - K.2. ...
- L. Turf and Pasture Grass
 - 1. - 2. ...
- M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:195 (April 1983), repealed and readopted by the Department of Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), amended LR 13:155 (March 1987), LR 12:232 (April 1987), LR 14:603 (September 1988), LR 23:1283 (October 1997).

§145. Noxious Weeds

- A. ...

	Limitations on weed seed in certified seed (by pounds)
1. Field Bindweed (<i>Convolvulus arvensis</i>)	Prohibited
2. Hedge Bindweed (<i>Convolvulus sepium</i>)	Prohibited
3. Nutgrass (<i>Cyperus esculentus</i> , <i>C. rotundus</i>)	Prohibited
4. Itchgrass (<i>Rottboellia exaltata</i> L., <i>R. cochinchinensis</i>)	Prohibited
5. Balloon Vine (<i>Cardiospermum halicacabum</i>)	Prohibited
6. Cocklebur (<i>Xanthium</i> spp.)	5 per lb.
7. Spearhead (<i>Rhynchospora</i> spp.)	5 per lb.
8. Purple Moonflower (<i>Ipomoea turbinata</i>)	9 per lb.
9. Red Rice (<i>Oryza sativa</i> var.)	9 per lb.
10. Wild Onion and/or Wild Garlic (<i>Allium</i> spp.)	9 per lb.
11. Canada Thistle (<i>Cirsium arvense</i>)	100 per lb.
12. Dodder (<i>Cuscuta</i> spp.)	100 per lb.
13. Johnsongrass (<i>Sorghum halepense</i>)	100 per lb.
14. Quackgrass (<i>Agropyron repens</i>)	100 per lb.
15. Russian Knapweed (<i>Centaurea repens</i>)	100 per lb.
16. Blueweed, Texas (<i>Helianthus ciliaris</i>)	200 per lb.
17. Bermuda Grass (<i>Cynodon dactylon</i>)	300 per lb.
18. Bracted Plantain (<i>Plantago aristata</i>)	300 per lb.
19. Buckhorn Plantain (<i>Plantago lanceolata</i>)	300 per lb.
20. Cheat (<i>Bromus secalinus</i>)	300 per lb.
21. Hairy Chess (<i>Bromus commutatus</i>)	300 per lb.
22. Corncockle (<i>Agrostemma githago</i>)	300 per lb.

23. Darnel (<i>Lolium temulentum</i>)	300 per lb.
24. Dock (<i>Rumex</i> spp.)	300 per lb.
25. Horsenettle (<i>Solanum carolinense</i>)	300 per lb.
26. Purple Nightshade (<i>Solanum elaeagnifolium</i>)	300 per lb.
27. Sheep Sorrel (<i>Rumex acetosella</i>)	300 per lb.
28. Morning Glory (<i>Ipomoea</i> spp.)	18 per lb.
29. Wild Poinsettia (<i>Euphorbia heterophylla</i> , <i>E. Dentata</i>)	18 per lb.
30. Wild Mustard and Wild Turnips (<i>Brassica</i> spp.)	300 per lb.
31. Hemp Sesbania, Coffeebean, Tall Indigo (<i>Sesbania exaltata</i>)	300 per lb.
32. Curly Indigo (<i>Aeschynomene virginica</i>)	300 per lb.
33. Mexican Weed (<i>Caperonia castaneaefolia</i>)	300 per lb.
Sum of total noxious weed (Subject to limitations above)	500 per lb.

- B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 9:197 (April 1983), repealed and readopted LR 12:825 (December 1986), amended LR 14:605 (September 1988), LR 23:1283 (October 1997).

§147. Bulk Certification Requirements

- A. - C.3. ...

D. Sampling of Seed to be Certified in Bulk. Seed sampling shall be conducted as provided in LAC 7:XIII.137.D, except that, at the option of the applicant, the sample to determine moisture content and germination is drawn.

- E. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), repealed and readopted LR 12:825 (December 1986), amended LR 23:1283 (October 1997).

§149. Interagency Certification (Out-of-State Seed)

- A. - C.4. ...

D. Seed to be certified by interagency action must be sequentially numbered.

- E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 9:196 (April 1983), repealed and readopted LR 12:825 (December 1986), amended LR 23:1283 (October 1997).

Subchapter C. Requirements for Certification of Specific Crops/Varieties

§175. Seed Corn (Open-Pollinated) Seed Certification Standards

- A. ...
- B. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	98.00%	98.00%	98.00%
Inert Matter	2.00%	2.00%	2.00%
Other Crops	None	None	5 seed/lb.
Other Varieties	None	None	3 seed/lb.
Noxious and Other Weeds	None	None	None
Germination	80.00%	80.00%	80.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:572 (November 1982), amended LR 9:197 (April 1983), repealed and repromulgated LR 12:825 (December 1986), amended LR 23:1284 (October 1997).

§177. Millet Seed Certification Standards

A. Field Standards

Factor	Foundation	Registered	Certified
Land Requirement	1 yr.	1 yr.	1 yr.
Isolation	1,320 ft.	1,320 ft.	825 ft.
Other Varieties	None	1 plant per acre	10 plants per acre

B. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	98.00%	98.00%	98.00%
Inert Matter	2.00%	2.00%	2.00%
Other Crops	None	None	None
Other Varieties	None	5 seed/lb.	10 seed/lb.
Noxious Weeds	None	None	None
Other Weeds	5 seed/lb.	5 seed/lb.	5 seed/lb.
Germination	75.00%	75.00%	75.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:572 (November 1982), amended LR 9:197 (April 1983), repealed and repromulgated LR 12:825 (December 1986), amended LR 23:1284 (October 1997).

§181. Onion Bulb Seed Certification Standards

- A. - C.2. ...
- D. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	99.50%	99.50%	98.00%
Inert Matter	0.50%	0.50%	2.00%
Other Varieties	None	None	None
Other Crops	0.20%	0.20%	0.20%
Noxious Weeds	None	None	None
Germination	80.00%	80.00%	80.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:572 (November 1982), amended LR 9:197 (April 1983), repealed and repromulgated LR 12:825 (December 1986), amended LR 15:613 (August 1989), LR 23:1284 (October 1997).

§205. Southern Field Pea (Cowpea) Seed Certification Standards

- A. ...
- B. Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure Seed	99.00%	98.00%	98.00%	98.00%
Inert Matter	1.00%	2.00%	2.00%	2.00%
Other Crops	None	None	None	1 seed/lb.
Other Varieties	None	None	None	1 seed/lb.
Noxious Weeds	None	None	None	None
Other Weeds	None	None	None	1 seed/lb.
Germination	80.00%	80.00%	80.00%	80.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:583 (November 1982), amended LR 9:197 (April 1983), repealed and readopted LR 12:825 (December 1986), amended LR 23:1284 (October 1997).

§207. Sugarcane (Tissue Culture) Certification Standards

A. Limitation of Stand Eligibility

1. Source of foundation stock is limited only to material obtained from the Louisiana State University Agricultural Center or USDA-ARS Sugarcane Research Unit sugarcane variety selection programs that has been processed through the LSUAC sugarcane quarantine program.

2. Additional propagation of original foundation stock shall be according to procedures determined by the American Sugar Cane League, the Louisiana Department of Agriculture and Forestry, the LSUAC, and the USDA-ARS Sugarcane Research Unit.

3. Source of registered stock is limited to plantlets produced through tissue culture of foundation material or the first ratoon thereof.

a. Stock that meets all standards except insect and/or weeds standards be maintained in the program as seed increase fields only, but may not be marketed to producers. Such stocks are eligible for recertification once they come in compliance with applicable regulations.

4. Source of certified stock is limited to:

a. three consecutive years from planting of registered stock; and

b. two consecutive harvests of certified stock.

B. - F.2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 12:825 (December 1986), amended LR 23:1284 (October 1997).

Bob Odom
Commissioner

9710#086

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Structural Pest Control Commission

Termite Control (LAC 7:XXV.135)

Editor's Note: All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter I and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry and the Structural Pest Control Commission amends LAC 7:XXV.135 to add Subsection J regarding the minimum specifications for termite control work and the requirements for baits and baiting systems and to put in place a pilot project for new bait and baiting products. These rules comply with and are enabled by R.S. 3:3203, R.S. 3:3256, R.S. 3:3363, R.S. 3:3366 and R.S. 3:3370.

No preamble regarding these rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§135. Minimum Specifications for Termite Control

Work

A. - I. ...

J. Requirements for Baits and Baiting Systems

1. Any licensee or any person working under the supervision of a licensee, who applies baits and/or baiting systems, shall be certified in the use of the baits and baiting systems, by the manufacturer of the product, prior to any application of the bait or baiting system. Manufacturer certification and training programs shall have approval of the agenda prior to the program by the Louisiana Department of Agriculture and Forestry. Manufacturer shall notify LDAF in writing of the licensees and technicians certified.

2. Bait and baiting systems shall be used according to label and labeling.

3. All baits and baiting systems applications shall be contracted and reported according to R.S. 3:3370 and LAC 7:XXV.115 and pay the fee as described in LAC 7:XXV.115.E.

4. Records of contracts, graphs, monitoring (if required), and bait applications shall be kept according to LAC 7:XXV.113.

5. All structures that cannot be treated according to the bait and baiting minimum specifications must have a waiver of the listed item or items signed by the owner prior to the baiting treatment. A copy of signed waiver must be filed with the Louisiana Department of Agriculture and Forestry with the monthly termite eradication reports.

6. A consumer information sheet, supplied by the manufacturer and approved by the commission, shall be supplied to the registered pest control operator. The pest control operator shall, in turn, supply a copy of the consumer information sheet to all persons contracted.

7. At termination of the bait contract, the pest control operator shall remove all components of bait and baiting systems.

8. The commission hereby establishes a pilot program for the use of bait and baiting systems and shall include but not be limited to the following:

a. all baits and baiting systems products shall be subject to the pilot project for a period of a minimum of one year. The Structural Pest Control Commission shall reevaluate the products in the pilot program prior to the end of the first quarter of every calendar year;

b. pilot project bait and baiting system products shall, upon approval of the commission, be listed in the *Louisiana Register*;

c. pilot project bait and baiting system products are subject to all regulations in LAC 7:XXV.135.J;

d. monitoring may be used to detect the presence of subterranean termites. Monitoring may include the use of toxicant delivery systems. All delivery systems shall be inspected at regular intervals, not less than once monthly and data shall be recorded;

e. baits and baiting systems may be used as a stand-alone termite treatment only with written approval by LDAF;

f. baits and baiting systems may be used as a supplement to traditional ground termiticide treatments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 21:931 (September 1995), LR 23:1285 (October 1997).

Bob Odom
Commissioner

9710#085

RULE

Department of Agriculture and Forestry Office of Marketing Market Commission

Vegetables and Citrus Fruits (LAC 7:V.1115 and 1127)

Editor's Note: All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Market Commission amends LAC 7:V.1115 and 1127 to provide for standardized grade, maturity and labeling and other matters governing the marketing or sale of citrus in Louisiana. These rules comply with and are enabled by R.S. 3:405.

No preamble regarding these rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing, and Processing

Chapter 11. Market Commission—Fruits and Vegetables

Subchapter A. Fruits and Vegetables

§1115. Citrus

In addition to regulations stipulated in LAC 7:V.1103, the following regulations and definitions are prescribed governing the marketing and/or sale of citrus in Louisiana.

1. Definitions

Broker—a person who assumes neither ownership nor possession of citrus, nor washes, packs, sizes, or grades citrus, but is engaged in the business of acting as an agent, for a fee or commission, in the sale or transfer of citrus between producers or packers as sellers and other packers, wholesalers, or retailers as buyers.

Citrus—shall include the following: lemons, satsumas, mandarins, navels, grapefruit, tangerines, and all Valencia varieties of citrus.

Citrus Container—any container used to sell field-run citrus. Boxes shall have volume or weight labeled on the side and the name and address of the producer/packer.

Commission—the Louisiana Department of Agriculture and Forestry, Market Commission.

Department—the Louisiana Department of Agriculture and Forestry.

Field-Run Citrus—unwashed and unsized citrus sold by the producer to a packer for further processing.

Louisiana Citrus Producer—any person engaged in growing citrus in Louisiana for wholesale or retail sale.

Packer—any person who washes, sizes, and packs citrus for wholesale/retail sales.

Producer—any person engaged in growing citrus for the purpose of wholesale or retail sale.

Retailer—any person who sells citrus to a consumer.

Small Louisiana Citrus Producer—any person who grows and markets his own citrus, for retail sales only, either at his fruit stand, store, or farm.

Standard Citrus Receptacle or Flexible Covering or Binding—any container used for the purpose of packing fruit for wholesale or retail trade.

Washed Citrus—citrus that is free from dirt, adhering foreign material, or residue that materially detracts from the appearance, the edible or the marketing quality of the fruit.

Wholesaler—any person engaged in the business of buying citrus from producers, packers, brokers, wholesalers, or other persons on his own account, and selling or transferring citrus to other wholesalers, packers, retailers, or other persons and consumers. A wholesaler includes a person engaged in producing citrus from his own farm and disposing of any portion of his production in any manner other than retail sales at his fruit stand, store or on his farm.

2. Citrus sold in Louisiana shall be required to meet the minimum maturity test of soluble solids in relation to percentage of anhydrous citric acid. Citrus fruit shall include the following: lemons, satsumas, mandarins, navels, grapefruit, tangerines, and all Valencia varieties of citrus.

a. Satsumas, mandarins, navels, tangerines, tangelos, Valencia and other round oranges must meet a maturity test of 10 percent soluble solids to 1 percent anhydrous citric acid.

b. Grapefruit must meet a maturity test of 6 percent soluble solids to 1 percent anhydrous citric acid.

c. Citrus fruit not meeting maturity tests standards will be put off sale, and the product will be seized by the Louisiana Department of Agriculture and Forestry in accordance with provisions in §1115.A.10 to prevent the citrus from again entering the wholesale or retail markets. The packer, or the producer or the wholesaler, or any combination of the three may be charged the costs that are involved in seizing and destroying the product.

3. Citrus for wholesale will be marketed only in new standard citrus containers which are sound, clean, and free of weather stains and discolorations. All containers must have the following on the outside of the container:

a. name of fruit, unless the fruit is in a see-through sack or a container that is not covered, such as a ½ bushel basket;

b. volume, net weight or count;

c. name of producer and/or packer;

d. if the fruit is being packed for someone other than the packer, then the label can read "Packed For": and give the person's name and address.

4. All citrus sold in Louisiana shall be washed and sold by weight, volume, or count for wholesale marketing purposes with the following exceptions:

a. if fruit offered for wholesale is not sized, all fruit within a container shall be of uniform size;

b. producers who sell only their own citrus retail are exempt from washing and sizing fruit; however, the citrus must be clean and sold by either weight, volume, or count;

c. producers who sell their citrus to a packer for processing and packing. Producers must invoice all such sales as field-run citrus. The packer buying field-run citrus is responsible for washing, sizing, and labeling of the citrus.

5. Products labeled as Louisiana citrus (Louisiana oranges, tangerines, etc.) shall have proof of origin. If the origin of the product cannot be proven, then all signs referring to the product as Louisiana citrus must be removed.

6. All producers, producer-packers, packers, and wholesalers shall furnish an invoice stating the type of citrus, volume or weight sold, and origin. All retail outlets must have a copy of the invoice showing the origin of the citrus before the citrus can be advertised or sold as "LOUISIANA CITRUS." If the seller cannot prove the citrus was grown in Louisiana, then all advertising stating such must be removed.

7. All citrus leaving the state must comply with all of the above regulations. No citrus shall be allowed to leave the state that has not been cleaned, properly labeled and packed in standard citrus containers.

8. Employees or agents of the Louisiana Department of Agriculture and Forestry are authorized to enter any store, vehicle, roadside stand, market, or any other business or place where citrus is packed, processed or sold to determine if the citrus is in compliance with these rules and regulations. In addition, any agent or employee of the Louisiana Department of Agriculture and Forestry may take necessary quantities of citrus fruits to conduct maturity tests. A receipt for such fruit will be issued upon request.

9. Penalties. Any person, corporation or other organization violating the provisions of this Chapter may be levied of civil penalty of not less than \$25 or more than \$500. In addition, any person, corporation or other organization violating the provisions of this Chapter or part of Chapter 5 of R.S. 3:401 - 414 shall be fined not less than \$25 nor more than \$500 or imprisoned for not less than 10 days nor more than six months, or both.

10. If any authorized inspector, in the discharge of his duties, has reason to believe that any lot of citrus being sold is not in compliance with these rules and regulations, he shall issue a stop-sale for such lot. If there is a question as to whether or not the lot meets maturity requirements, then the inspector will take a sample of the fruit to run a maturity test. A stop-sale may be issued for up to 24 hours while the maturity tests are being performed. If the citrus does not meet minimum maturity requirements, the lot will have a permanent stop-sale issued and may be removed by the department to a proper cold storage until such time as the

wholesaler or the packer can be contacted and inform the department of how he will dispose of the citrus.

a. Citrus that has a stop-sale issued for reasons other than failing to meet maturity requirements may be reworked and offered for reinspection. The inspector who issued the stop-sale shall serve the person in possession of the lot with notice of noncompliance. Such notice shall be served in person before the inspector leaves the premises. The person in possession shall notify the owner of the lot, or every other person that has an interest in it, of the serving of such notice of noncompliance. The notice of noncompliance shall include all of the following:

i. description of the lot;

ii. location of the lot;

iii. reasons for which the lot is held.

b. The owner of the lot shall have 48 hours from the time of serving of such notice of noncompliance for reconditioning or for the correction of the deficiencies which are noted in the notice of noncompliance. If such lot is reconditioned or the deficiencies are corrected, the inspector shall remove the stop-sale tags and release the lot for marketing or may, with the consent of the owner of such, divert the lot to other lawful uses or destroy it.

c. If the owner of the lot fails or refuses to give such consent, or if the lot has been reconditioned or the deficiencies otherwise corrected so as to bring it into compliance within 48 hours, the inspector shall proceed as provided in Chapter 5 of R.S. 3:3552.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:248 (March 1985), amended by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 23:1286 (October 1997).

§1127. Mislabeling of Fresh Fruits and Vegetables Prohibited

A. No person or firm shall mislabel any fresh fruit or vegetable, or place or have any false or misleading statement or designation of quality, grade, trademarks, trade name, area of production or place of origin on any fruit or vegetable, or on any placard used in connection with or having reference to any fresh fruit or vegetable or container, bulk lot, bulk load, load, arrangement, or display of fresh fruits or vegetables. Any fruits and/or vegetables found mislabeled shall have a stop-sale placed on the product and may be seized by the department.

B. Fruits or vegetables labeled as a Louisiana-grown or produced product must have proof of origin of that product, such as sale invoices that give the producers or producer-packer's name and address. Any product labeled, "Louisiana Fruit," "Louisiana Vegetables," or has the name of a town (such as "Ruston Peaches," "Hammond Strawberries," etc.) attached to said product, that implies it was produced in that region, must have proof that the product is a Louisiana product and was produced in that region.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:249 (March 1985), amended by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 23:1287 (October 1997).

Bob Odom
Commissioner

9710#084

RULE

Department of Civil Service Board of Ethics

Organization; Powers; Hearings; Penalties; Reports;
Records; and Registration (LAC 52:I.Chapters 1-16)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Board of Ethics has initiated rulemaking procedures to promulgate rules as required by the *Code of Governmental Ethics* (R.S. 42:1102 et seq.); the Campaign Finance Disclosure Act (R.S. 18:1463 et seq.); the Lobbyist Disclosure Act (R.S. 24:50 et seq.); the Elections Integrity Act (R.S. 18:41 et seq.); and certain provisions of the Gaming Control Act (R.S. 27:1 et seq.).

All rules previously adopted and/or amended by the Board of Ethics for Elected Officials and/or the Commission on Ethics for Public Employees are hereby repealed with the exception of the following:

1. Personal Financial Disclosure Form. Promulgated by the Department of Civil Service, Board of Ethics for Elected Officials, LR 12:9 (January 1986);

2. Lobbyist Disclosure Appendix A—Form 1, Lobbying Expenditure Report. Promulgated by the Department of Civil Service, Board of Ethics for Elected Officials, LR 22:1120 (November 1996), amended by the Department of Civil Service, Board of Ethics, LR 23:704 (June 1997).

3. Lobbyist Disclosure Appendix A—Form 2, Lobbying Registration Form. Promulgated by the Department of Civil Service, Board of Ethics for Elected Officials, LR 22:1121 (November 1996).

4. Lobbyist Disclosure Appendix A—Form 3, Lobbying Supplemental Registration Form. Promulgated by the Department of Civil Service, Board of Ethics for Elected Officials, LR 22:1122 (November 1996).

5. Lobbyist Disclosure Appendix A—Form 3A, Supplemental Registration Form. Promulgated by the Department of Civil Service, Board of Ethics for Elected Officials, LR 22:1121 (November 1996).

6. Lobbyist Disclosure Appendix A—Form 4, Lobbying Registration Employer Verification Form. Promulgated by the Department of Civil Service, Board of Ethics for Elected Officials, LR 22:1123 (November 1996).

Title 52 ETHICS

Part I. Board of Ethics

Chapter 1. Definitions

§101. Definitions

Affected Person—any person or governmental agency, or the authorized representative of such person or agency with a demonstrable and objective interest in the board's interpretation, construction, and application of any law within the board's jurisdiction.

Campaign Finance Disclosure Act—refers to R.S. 18:1481 et seq.

Code—refers to the *Code of Governmental Ethics*, R.S. 42:1101 et seq.

Consent Opinion—a written decision and order of the board issued with the agreement of the respondent in order to publicly settle any matter which appears to be a violation of any law within the board's jurisdiction in lieu of filing charges, holding a public hearing, or filing a civil action.

Elections Integrity—refers to R.S. 18:41 et seq.

Emergency—an unforeseen combination of circumstances that calls for immediate action.

Ethics Administration Program—the unit of the Department of Civil Service and those employees who provide staff support for the board.

Fact-Finding—the process, initiated by the board, whereby the staff, under the supervision of the ethics administrator, gathers information so that proper disposition can be made by the board on requests for advisory opinions, media reports, and verbal reports. With respect to media reports and verbal reports, *fact-finding* means only the solicitation of a written response by the ethics administrator or his designee from the respondent of the fact-finding.

He or His—when used as a pronoun includes either gender or a legal entity, whether singular or plural, except as otherwise clearly indicated by the context.

Lobbyist Disclosure Act—refers to R.S. 24:50 et seq.

Person Aggrieved—any person who was the subject of a complaint or an investigation or any person to whom notice of charges was issued.

Publication or *Publish*—the process whereby the staff places the board's decision in written form for the board's approval and signature and thereafter sends a copy to any interested person. Nothing herein shall alter the confidentiality of those matters confidential by law.

Respondent—any person who is the subject of charges filed by the board.

Staff—the ethics administrator, the executive secretary and the employees of the Ethics Administration Program.

Supervisory Committee—the Board of Ethics or any panel thereof with jurisdiction over matters involving campaign finance disclosure.

Trial Attorney—the attorney or attorneys designated by the chairman pursuant to §501 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1288 (October 1997).

Chapter 2. Organization, Rules, Procedures, and Powers of the Board

§201. Election of the Chairman and Vice-Chairman

A. The chairman and vice-chairman shall be elected for a two-year term at the first meeting held following January 1 of each odd-numbered year commencing with January 1, 1997.

B. In case of a vacancy in the office of chairman or vice-chairman, the board shall elect a new chairman or vice-chairman who shall serve until the expiration of the vacated term.

C. The chairman shall:

1. preside at all meetings of the board when present;
2. assign matters to the appropriate panel for investigation;
3. act or direct the staff to act between meetings of the board on routine matters involving scheduling, docketing, appearances, continuances, and postponements;
4. provide direction on behalf of the board between meetings to the board's counsel during litigation; and
5. perform all other duties pertaining to the office of chairman or as may be assigned to him by the board.

D. In the absence of the chairman, the vice-chairman shall perform all the duties of the chairman.

E. During the course of an adjudication, the board may, by a majority vote of its participating members and with the concurrence of the chairman, designate a member who is an attorney to act as the presiding officer during the adjudication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1289 (October 1997).

§202. Powers of the Board

The board is empowered to:

1. administer and enforce any law within its jurisdiction;
2. represent the public interest in the administration of any law within its jurisdiction;
3. offer and enter into consent opinions regarding violations of the provisions of any law within its jurisdiction;
4. refer to fact-finding media reports, verbal reports, or requests for advisory opinions;
5. prescribe rules of order, evidence and procedure to govern its meetings, hearings, and investigations;
6. take such steps as may be necessary to maintain proper order and decorum during the course of its hearings and other proceedings, consistent with the resolution of matters coming before it for consideration; and
7. include on the agenda for board consideration any matter of interest to any board member which is within the board's jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1289 (October 1997).

§203. Panels of the Board

A. The board may, by a majority vote of its membership, implement the provisions of R.S. 42:1141(A) through the selection of panels at any time it deems appropriate. The

subject matter jurisdiction of each such panel shall be determined by the board.

B. Each panel shall consist of three or more members of the board. The chairman of the board may participate in all meetings of any panel. The presence of at least three members of a panel shall be required to conduct the business of the panel.

C. The panels may be implemented by a majority vote of participating members of the board.

D. Each panel shall elect a chairman and may select a vice-chairman who shall serve at the pleasure of the panel. It shall be the duty of the chairman of the panel to preside at all meetings of the panel and to perform all other duties pertaining to this office.

E. Each panel shall meet at such time and place as may be fixed by the panel.

F. Except as otherwise provided by law, any determination by a panel shall be made by not less than three members or by a majority of those members participating, whichever is greater.

G. The board, by majority vote of its membership, may review any opinion, decision, finding, or ruling of any panel.

H. Any person aggrieved by any action taken by a panel may file with the board a written request for review of the panel's action. The request shall set forth the facts and law which justify review by the board and shall be filed within 14 days of the date the decision of the panel is published. The board shall determine whether or not to review the panel's decision within 14 days of the filing of the request for review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1289 (October 1997).

§204. Meetings

A. The board shall meet at such time and place as may be fixed by the board.

B. Notice of each meeting shall be given to all members of the board.

C. Notice of each meeting shall be given to the general public in accordance with R.S. 42:7.

D. All meetings shall be open to the public, except as otherwise provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1289 (October 1997).

§205. Quorum and Voting

A. Six members of the board shall constitute a quorum for the transaction of the business of the board.

B. The presence of nine members shall be required to conduct the business of the board sitting en banc.

C. Two-thirds of the membership of the board shall be eight members of the board.

D. The concurrence of a majority of the members participating shall constitute a ruling upon an item of business before the board, except as otherwise provided by law.

E. Brief absences during the consideration of an item of business shall not disqualify a member from voting on said item.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1289 (October 1997).

§206. Executive Secretary to the Board

The board shall appoint an executive secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1290 (October 1997).

§207. Minutes of Proceedings

The minutes of the proceedings of the board and any panel thereof shall be prepared and maintained by the executive secretary or his designee on behalf of and subject to the approval of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1290 (October 1997).

Chapter 3. Duties of the Executive Secretary

§301. Duties of the Executive Secretary

The executive secretary or his designee shall:

1. act as the board's secretary; attend all of its meetings; and keep minutes of its proceedings;
2. carry out the directives, orders, and assignments of the board;
3. prepare such reports as the board may request regarding its work;
4. issue subpoenas and subpoenas duces tecum;
5. act between meetings of the board on routine matters not requiring board approval;
6. provide normal staff services in support of the board's activities;
7. notify, in writing, the appropriate appointing authority of the pending expiration of the term of each board member;
8. receive all reports filed by political committees and candidates pursuant to the provisions of the Campaign Finance Disclosure Act;
9. receive all complaints filed pursuant to the provisions of any law within the board's jurisdiction;
10. receive all reports filed pursuant to the provisions of the Lobbyist Disclosure Act;
11. receive all requests for advisory opinions and forward copies of same to each board member; and
12. schedule appearances at convened meetings of the board or any panel thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1290 (October 1997).

§302. Oaths and Affirmations

The executive secretary, if a notary, shall have power to administer oaths in matters related to the business of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1290 (October 1997).

Chapter 4. Designated Duties of the Ethics Administrator

§401. Duties of the Ethics Administrator

The ethics administrator or his designee shall:

1. serve as general counsel to the board and shall provide general office management;
2. assume, carry out, and generally discharge those responsibilities incumbent upon the ethics administrator, as determined by class specifications published by the Department of Civil Service;
3. conduct educational activities and seminars regarding any law within the board's jurisdiction open to all public servants in all state and local agencies and persons who do business with such agencies;
4. provide information and material, in booklet form, by seminar or by other means, to any individual appointed to a public board or commission regarding the provisions of the *Code of Governmental Ethics* applicable to such appointed positions;
5. publish newsletters and information bulletins regarding any law within the board's jurisdiction;
6. provide oral information and training regarding campaign finance disclosure, lobbying, and ethics;
7. manage the computerized data management system for the collection and dissemination of any material or reports required to be filed with the board pursuant to any law within its jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1290 (October 1997).

§402. Oaths and Affirmations

The ethics administrator, if a notary, shall have power to administer oaths in matters related to the business of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1290 (October 1997).

Chapter 5. Designated Duties of the Trial Attorney

§501. Designation

The chairman, with the concurrence of a majority of the board, shall, with respect to each case in which charges have been filed and noticed for public hearing, designate an attorney to serve as trial attorney. The chairman shall make such designation, to the extent practicable, at the time charges are filed. Thereafter, the chairman may change the designation upon notice to the respondent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1290 (October 1997).

§502. Duties

It shall be the responsibility of the trial attorney to marshal the evidence with respect to the proposed public hearing, cause all subpoenas and subpoenas duces tecum to be issued, and to present evidence and argument during the course of the public hearing in support of the stated charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1290 (October 1997).

§503. Ex Parte Communications

The designated trial attorney shall refrain from *ex parte* communications with the board and attorneys designated to advise the board or responsible for assisting in writing the opinion of the board, except as is otherwise specifically provided for in the Administrative Procedure Act, §960.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1291 (October 1997).

§504. Disqualification

With respect to a particular public hearing, the trial attorney shall not give nor shall the board receive advice and counsel, and shall be disqualified from any authority or responsibility with respect to the formulation of the board's opinion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1291 (October 1997).

Chapter 6. Advisory Opinions

§601. General Requirements

A. The board shall receive requests for advisory opinions filed with it by affected persons. Requests for advisory opinions shall be in writing, state the name and address of the person requesting the advisory opinion, disclose his interest in the question presented, state the governmental agency and/or individual involved, specifically describe the transaction involved, be signed by the person making the request, and state sufficient facts to enable the board to respond. The board may decline to render an opinion with regard to any such request.

B. The board may on its own motion render an advisory opinion regarding any law within its jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1291 (October 1997).

§602. Dating and Docketing

The ethics administrator shall cause the date of receipt to be noted on each request for an advisory opinion. A docket shall be maintained upon which each request shall be given an appropriate caption and number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1291 (October 1997).

§603. Placement on Agenda

All requests for advisory opinions shall be placed for consideration on the general or consent agenda as soon as practicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1291 (October 1997).

§604. Consent Agenda

A. The staff shall research and prepare a consent agenda of proposed advisory opinions consisting only of those advisory opinions which are based on and consistent with prior opinions and decisions of the board or its predecessors.

B. The board may review and revise any opinion prepared by the staff contained on the consent agenda.

C. If a member of the board objects to considering a proposed advisory opinion on the consent agenda, the item shall not be considered on the consent agenda but shall be placed on the general agenda.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1291 (October 1997).

§605. Emergency Opinions

Where the ethics administrator, upon receipt of a request for an advisory opinion, determines that an emergency exists and that said opinion must be rendered prior to the next regularly scheduled meeting of the board, the ethics administrator may, after consultation with the chairman of the board, issue an advisory opinion, in writing. Such opinion, issued by the ethics administrator, may be relied upon with impunity until such time as the board adopts a contrary or qualifying opinion. Such opinion, issued by the ethics administrator, shall be placed on the general agenda at the next meeting of the board at which time the board shall either confirm, modify, or reject the opinion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1291 (October 1997).

§606. Presentation of Requests

All requests for advisory opinions shall be presented to the board by the staff at a public meeting. Following the presentation, the board shall decline the request, defer action thereon pending further fact-finding, declare its opinion, or take the request under advisement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1291 (October 1997).

§607. Withdrawal

The board may allow a request for an advisory opinion to be withdrawn if the person who submitted the request provides written reasons for withdrawal which the board deems sufficient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1291 (October 1997).

§608. Notification

The staff of the board shall provide the person requesting an advisory opinion written notification of the board's action within 30 days after such action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1291 (October 1997).

§609. Reconsideration

Any affected person may file a request for reconsideration of an advisory opinion rendered by the board. No such request shall be considered by the board unless it is received by the staff within 30 days from the date of mailing of the advisory opinion which is the subject of the request for reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1291 (October 1997).

Chapter 7. Complaints

§701. General Requirements

The board shall consider any signed sworn complaint from any elector concerning a violation of any law within its jurisdiction or the regulations or orders issued by the board. The complaint may be based on firsthand knowledge or on information and belief. Upon consideration of a sworn complaint, the board may close the file, refer the complaint to investigation, or take such other action as it deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1292 (October 1997).

§702. Dating and Docketing

The executive secretary shall cause the date of receipt to be noted on each complaint. The complaint shall be deemed filed only upon the board's initial consideration of same at a convened meeting. A docket shall be maintained upon which each complaint shall be given an appropriate caption and number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1292 (October 1997).

§703. Consideration of Information Concerning Possible Violations

A. Except as otherwise provided by law, the board may, by two-thirds majority vote (eight votes) of its membership, consider any matter which it has reason to believe may be a violation of any law within its jurisdiction including, but not limited to, a notice or report sent to the board by the legislative auditor or the inspector general, and on such consideration may close the file, refer the matter to investigation, or take such other action as it deems appropriate.

B. If less than eight members of the board are participating at a convened meeting, then any matters described in §703.A shall be returned by the executive secretary to the board's agenda for the next scheduled meeting.

C. If at least eight members of the board are participating at a convened meeting, then a vote shall be taken on any matters described in §703.A, and such vote shall be conclusive as to each such matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1292 (October 1997).

§704. Notification

A. The executive secretary shall mail, by certified mail, a certified copy of the vote and explanation of the matter to the object of the complaint and the complainant within 10 days after the vote occurs.

B. The executive secretary shall mail, by certified mail, a copy of the sworn complaint if one has been submitted to the board to the object of the complaint and the complainant within 10 days after the complaint is received and considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1292 (October 1997).

§705. Fact-Finding

The board may, by majority vote of its participating members, refer media reports or verbal reports to fact-finding. The ethics administrator or his designee shall only engage in the requesting of a written response from the person who is the subject of the fact-finding and shall return the matter in not more than 60 days to the board's agenda, at which time the board shall take such action as it deems necessary including, but not limited to, voting to consider a matter, as provided in §703 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1292 (October 1997).

§706. Withdrawal

A. If the complainant wishes to withdraw the complaint prior to the board's commencement of its investigation, withdrawal shall be allowed, except in cases where the board, by two-thirds majority vote of its membership, determines the issues to be of such importance as to warrant ordering the investigation in its own right and in the interest of the public welfare.

B. The executive secretary shall notify the complainant, by mail, of the board's decision with respect to the complainant's request for withdrawal within 10 days after the vote occurs. If the board votes to continue its investigation, then the notice provisions of §704 of these rules shall apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1292 (October 1997).

§707. Elections Integrity

A. Except as otherwise provided in §707, the general provisions relating to complaints shall apply to complaints filed regarding violations of elections integrity.

B. The board may investigate violations of elections integrity only upon receipt of a sworn statement by any voter of this state alleging error, fraud, irregularity, or other unlawful activity in the conduct of an election for the office of governor, lieutenant governor, secretary of state, state treasurer, attorney general, commissioner of elections, commissioner of agriculture, commissioner of insurance, United States Senator, United States Congressman, public service commissioner, member of the state Board of Elementary and Secondary Education, and justice of the Supreme Court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1292 (October 1997).

§708. Complaints; Action by the Board

The board shall have one year from the date upon which a complaint is received to either dismiss the complaint or file formal charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1292 (October 1997).

Chapter 8. Investigations

§801. General

Upon receiving a sworn complaint or voting to consider a matter as provided in §703 of these rules, the board may instruct the staff to conduct a private investigation. In the event the board divides itself into panels, the board may instruct the chairman to assign each such matter to the appropriate panel for private investigation. The executive secretary or his designee shall provide written notification of the commencement of the investigation to the subject of the investigation and complainant not less than 10 days prior to the date set for the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1293 (October 1997).

§802. Board Investigation

When the board orders an investigation, once the investigation is completed and the report reviewed by the board, the board shall decide whether:

1. further investigation is necessary;
2. charges should be filed and the case noticed for public hearing;
3. a consent opinion should be offered; or
4. the file should be closed in order to serve the public interest or because no violation occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1293 (October 1997).

§803. Panel Recommendation; Procedure

A. If an investigation is ordered by a panel, once the investigation is completed and the report reviewed by the panel, the panel shall make a recommendation to the board that:

1. further investigation is necessary;
2. charges should be filed and the case noticed for public hearing;
3. a consent opinion should be offered; or
4. the file should be closed in order to serve the public interest or because no violation occurred.

B.1. After receiving the panel's recommendation, the board shall determine whether to accept the panel's recommendation or to take such other action as it deems appropriate.

2. If the board decides to close its file, the executive secretary shall provide written notification to the subject of the investigation and the complainant within 10 days of the ruling.

3. If the board decides to hold a public hearing, the board must decide, on a case by case basis, whether the public hearing shall be held before the board, the board sitting en banc, or referred back to the appropriate panel for public hearing. All public hearings shall be subject to the provisions of Chapters 10, 11, and 12 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1293 (October 1997).

Chapter 9. Consent Opinions

§901. General

The board may, in its sole discretion, offer consent opinions to those persons alleged to have violated any law within its jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1293 (October 1997).

§902. Procedures

If the board decides to offer a consent opinion, it shall direct its staff to prepare a draft to be sent to the subject of the allegation for acceptance, modification, or rejection. If the subject of the allegation accepts the terms of the proposed consent opinion, then the opinion shall be placed on the board's executive agenda for review. The board shall have the option to reject a proposed consent opinion and take further appropriate action. If the opinion is accepted by the board, the opinion shall be placed on the board's next general business agenda for adoption and publication. If the subject of the allegation refuses the offer, then the item shall be placed upon the board's agenda for further action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1293 (October 1997).

Chapter 10. Hearings

§1001. Private Hearings

The procedure governing private hearings shall be, to the extent practicable, identical to the procedure set forth below governing public hearings, except that private hearings shall be closed to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1293 (October 1997).

§1002. Initiating Public Hearings

A. Public hearings shall be initiated by order of the board through the issuance of charges.

B. The charges shall contain:

1. the name of the person charged;
2. the date of the meeting at which the board voted to filed charges;
3. the allegations which will be explored at the public hearing and the pertinent provisions of law alleged to have been violated;
4. the date, time, and location, if fixed, of the public hearing. Otherwise, the board shall, in supplemental correspondence, inform the person charged of the date, time, and location of the public hearing; and
5. the name of the trial attorney, if designated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1293 (October 1997).

§1003. Assigning Public Hearings

A. The board or a panel thereof shall fix the time and place for the public hearings.

B. For cause considered justifiable, the board or a panel thereof, the chairman, or its executive secretary, may upset any fixing and give the hearing a special assignment both as

to time and place, with appropriate notification to all interested parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1293 (October 1997).

§1004. Place of Public Hearing

A. Subject to the provisions of §1004.B, all public hearings before the board, or a panel thereof, shall be conducted at a convenient place, accessible to the public, in the Parish of East Baton Rouge, Louisiana.

B. The board, or a panel thereof, may direct that a public hearing be conducted in the parish wherein the public servant or person alleged to have violated any provision of law within the jurisdiction of the board resides or in the parish of the official domicile of any office or employment held by the person charged.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1294 (October 1997).

§1005. Notice of Public Hearings

A. The executive secretary shall cause notice of public hearings to be posted and mailed to requesting parties at least five days prior thereto, except as otherwise specifically provided in Section 1141(E) of the *Code of Governmental Ethics* or in the case of emergencies.

B. Notice to the public shall be posted in the lobby of Suite 200, 8401 United Plaza Boulevard, Baton Rouge, Louisiana, 70809 and at such other place where the public hearing is to be held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1294 (October 1997).

§1006. Continuance of Public Hearings

A. A public hearing fixed and not reached shall be refixed by the board.

B. The board, a panel thereof, the chairman, or its executive secretary may, for cause deemed sufficient, grant or order, with respect to any one or more respondents involved, a continuance of any public hearing; and, in the board's discretion, the public hearing may proceed as to those respondents to whom no continuance was granted.

C. With the board's approval, a hearing may be continued by consent of all interested parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1294 (October 1997).

§1007. Procedure in Hearings

A. Except in the case of private hearings, all hearings conducted under the provisions of this Chapter shall be open to the public.

B. Respondents and witnesses shall be subject to cross-examination as in trials before the district courts of the state; each member of the board may also examine and cross-examine any witnesses.

C. The board may require that the respondent and trial attorney stipulate to all undisputed facts.

D. When a pending case involves substantially the same question of law or fact as presented in a prior public hearing, the board, at the request of the trial attorney, a respondent, a respondent's attorney, or on its own motion, may admit as evidence any part of the record of such previous public hearing as it or he may deem relevant; provided, that in the application of this rule no respondent or the trial attorney shall be deprived of the right to cross-examine any adverse witness.

E. The board may, in any case on its own motion, invite or allow any member or members of the Louisiana State Bar Association to present oral or written argument on any question of law, provided such oral argument is presented at a hearing when all parties are present, or represented, or that a copy of all written arguments be served on all parties, or their counsel, if any. Service of such written argument shall be made, by mail, by the executive secretary within two working days of the receipt thereof by him.

F. The charges filed against a respondent shall create no presumption that the respondent violated any provision within the board's jurisdiction.

G. When, during the course of a hearing, a ruling by the board is to be made, the presiding member may rule, and his ruling shall constitute that of the board; provided, that should an objection be made to such ruling by a member of the board, said ruling shall be immediately resolved by a majority vote of those members of the board present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1294 (October 1997).

§1008. Evidence

A. Except as otherwise provided in the Administrative Procedure Act, the board may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. The board may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record.

B. The board may limit corroborative evidence.

C. When a ruling is made excluding evidence, counsel may dictate into the record as a proffer available to be considered in the case of appellate review, the facts to be proven if the excluded evidence had been admitted.

D. The charges may be enlarged to conform with the evidence admitted.

E. The board shall give effect to the rules of privilege recognized by law.

F. All evidence, including records and documents in the possession of the board of which it desires to avail itself, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence. The authenticity of any such copies shall be presumed.

G. The board may take notice of judicially cognizable facts and federal census data.

H. The board may take notice of the provisions of any law within its jurisdiction without the necessity of an offer in evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1294 (October 1997).

§1009. Subpoena of Witnesses and Production of Documents

A. The board, the ethics administrator, the executive secretary, and any specially designated agent of the board, shall have power to order the appearance of witnesses and to compel the production of books and papers pertinent to the issues involved in any public hearing.

B. Any respondent desiring the issuance of a subpoena for any witness at a public hearing must apply for it, in writing, at least 10 days before the date fixed for the hearing and must give the name and physical address of the witness to whom the subpoena is to be directed.

C. In lieu of the issuance and service of formal subpoenas to state employees, the board or any person authorized by §1009.A may request any agency to order any designated employee under its supervision to attend and testify at any public hearing; and, upon being so ordered, the employee shall appear and furnish testimony.

D. Any respondent desiring the production of books, papers, photographs, or other items at any public hearing must apply for an appropriate order, in writing, at least 10 days before the date fixed for the hearing. Such application must describe the books or papers to be produced in sufficient detail for identification, must give the full name and physical address of the person required to make such production; and the materiality of their production to the issues must be certified to by the respondent or his counsel.

E. A subpoena duces tecum issued pursuant to §1009 shall be returnable at the public hearing or at such earlier date, time, and place as specified therein.

F. Authenticated copies of books, papers, photographs, or other items in the custody of any agency of the state, or any subdivision thereof, which have been subpoenaed may be admitted in evidence with the same effect as the originals, but if original books, papers, photographs, or other items are subpoenaed, they must be produced and made available for inspection, even though authenticated copies may be subsequently introduced.

G. The board or its chairman, may, for cause deemed sufficient, issue an appropriate order at any time recalling any subpoena, subpoena duces tecum, or request issued by it or him under the provisions of this rule. The respondent may likewise obtain an order from the board recalling any subpoena, subpoena duces tecum, or request issued or caused to be issued by him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1295 (October 1997).

§1010. Exclusion of Witnesses

The board, on request of any respondent, an attorney for a respondent or the trial attorney, shall, or on its own motion, may order that the witnesses in any hearing be excluded so as

to preclude any witnesses, other than the respondents, their attorneys and the trial attorney, from hearing the testimony of any other witnesses. If so ordered, all witnesses shall be administered an oath and admonished not to discuss their testimony until the conclusion of the proceeding, except with counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1295 (October 1997).

§1011. Summary Disposition of Charges

A. At any time after the filing of charges, any respondent may file with the board a written request for summary disposition thereof, in the form of a motion or exception and in accordance with the provisions of §1102, on any of the following grounds:

1. that the board lacks jurisdiction of the subject matter, or of the respondent;

2. that the charges have not been initiated in the manner prescribed by the rules;

3. that the charges, if true, would not constitute a violation of the code;

4. that the time in which to commence action, as provided by any law within the board's jurisdiction, has passed; and

5. that the affidavits and other documents filed in connection with the charges show that there is no genuine issue of material fact, and that the respondent is entitled to summary dismissal as a matter of law.

B. Any request for summary disposition, when made prior to the date fixed for the hearing, may be supported by sworn affidavits and shall be accompanied by written argument or brief. The board may require that copies of the motion and affidavits be furnished to the trial attorney and any other respondents, and may invite opposing motions and affidavits within a specified time.

C. When a request for summary disposition has been filed with the board in any proceeding, the trial attorney for the board shall submit oral or written argument or brief in connection therewith and provide the respondent or his attorney with a copy thereof.

D. If the board denies the request for summary disposition or refers it to the merits, it may reconsider same at any time.

E. The board may at any time, on its own motion, summarily dispose of charges on any of the grounds listed in §1011.A.

F. When the board disposes summarily of a charge or charges, its decision shall be final on the date of publication of the board's opinion, disposing of the case. The executive secretary, thereafter, shall give the interested parties notice of the decision within 10 days thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1295 (October 1997).

§1012. Consolidation of Public Hearings

When public hearings of two or more respondents involve similar or related circumstances, the board may, on its own respondent, order a joint hearing of all respondents or may order separate hearings for specified respondents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1295 (October 1997).

§1013. Transcripts of Public Hearings

The proceedings of all public hearings shall be recorded, but shall be transcribed only upon order of the board or upon request made by a respondent therein, accompanied by proffer of such cost as may be determined by the executive secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1296 (October 1997).

§1014. Witness Fees in Public Hearings

A. The travel expenses of an officer or employee of a state agency who is required to appear before the board shall be paid by the agency which employs him.

B. The board may order that any person who is not an officer or employee of a state department and who is subpoenaed to testify at a public hearing shall be entitled to the same mileage and fees as are allowed witnesses in civil cases by the Nineteenth Judicial District Court for the Parish of East Baton Rouge.

C. If a witness is subpoenaed by a respondent, the board may order the same cost of witness fees and mileage to be paid by such respondent.

D. The board or the executive secretary may, before issuing a subpoena, require the party requesting the subpoena to deposit with the executive secretary a sum sufficient to cover the mileage costs and witness fees, pending a determination of costs by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1296 (October 1997).

§1015. Costs of Public Hearings

The board may, in its discretion, order the costs of any public hearing, or any portion of such costs, including the costs of recording and transcribing testimony, to be paid by or charged to either the board's funds or the respondent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1296 (October 1997).

§1016. Interlocutory Rulings

A. Formal exceptions to the interlocutory rulings or orders of the board are unnecessary.

B. The board may, at any time prior to a final decision, recall, reverse, or revise any interlocutory ruling or order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1296 (October 1997).

§1017. Board Action Following Public Hearings

A. Following the close of a public hearing, the board may either render its decision or take the matter under advisement. In either event, the board may deliberate in general or executive session for the purpose of reaching a determination. The decision may be made orally by dictating findings of fact and conclusions of law into the record or by causing a written opinion to be confected. If the matter is taken under

advisement, the board shall have 90 days within which to render a decision.

B. In the event the board chooses to publish a written opinion, the board shall not receive assistance from the trial attorney in drafting and publishing its written opinion.

C. Except as otherwise specifically ordered by the board, the decision of the board shall be final:

1. on the date of mailing of notice to the respondent of the board's decision, along with a certified copy of the approved minutes of the board, if the board renders its decision orally; or

2. on the tenth day following the publication of its opinion, if the board chooses to have a written opinion confected, if there has been no timely application for rehearing in accordance with §1019.

D. The executive secretary shall notify the person charged and the complainant of the board's decision, in writing, within 10 days of the board's final decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1296 (October 1997).

§1018. Rehearings

A. Any person aggrieved may apply to the board for a rehearing, in writing, within 10 days from the date the board's decision becomes final. The grounds for an application for a rehearing shall be that:

1. the decision or order is clearly contrary to the law and the evidence;

2. the party has discovered, since the hearing, evidence important to the issues which he could not have, with due diligence, obtained before or during the hearing;

3. there is a showing that issues not previously considered ought to be examined in order to properly dispose of the matter; or

4. there is other good ground for further consideration of issues and the evidence in the public interest.

B. The application of an aggrieved party for a rehearing shall set forth the grounds which justify such action and shall be accompanied by a written brief or argument in support thereof.

C. In the event the board grants a rehearing, a time and place for the rehearing shall be fixed, and the rehearing shall be confined to those grounds upon which the rehearing was ordered.

D. If an application for rehearing is timely filed, the period within which judicial review, under the applicable statute, must be sought, shall run from the final disposition of such application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1296 (October 1997).

Chapter 11. Pre-Hearing Procedure

§1101. Discovery

A. Any public servant or other person who has been notified that he is to be the subject of a public hearing pursuant to the provisions of R.S. 42:1141(E), shall be entitled to the following if written request to the executive secretary is made at least 15 days prior to the date of the scheduled hearing:

1. a certified copy of the transcript of the private hearing, in the event there was a private hearing;
2. the name and address of each individual that the staff intends to call at the proposed hearing, together with any written statements obtained by the staff from such persons;
3. a copy of each physical document that the board's staff intends to introduce before the board at the proposed hearing.

B. The trial attorney and any respondent may obtain discovery regarding any matter, not privileged, which is relevant to the pending public hearing. It is not ground for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

C. The trial attorney and any respondent may take depositions on oral examination, and pursuant to the provisions of applicable *Code of Civil Procedure* articles, to the extent practicable, of those persons whose names and addresses have been furnished to the respondent pursuant to the provisions of §1101.A.2, and provided further that the taking of said depositions does not unreasonably impede the scheduled hearing. Such depositions shall be admissible in the public hearing, as ordered by the board or any panel thereof or as otherwise provided by law.

D. The trial attorney and any respondent may serve upon each other written interrogatories, pursuant to the provisions of applicable *Code of Civil Procedure* articles, to be answered by the party served within 15 days of receipt. With respect to any public hearing, written interrogatories served in accordance with this provision shall not exceed 35 in number, including Subparts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1296 (October 1997).

§1102. Motions and Exceptions

A. Motions and exceptions may be made before, during, or after a public hearing. All motions and exceptions shall be filed at least five days prior to the day when the motion or exception is sought to be heard, except for good cause as determined by the board.

B. Motions and exceptions made before or after the public hearing shall be in writing and shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefore.

C. Motions and exceptions made during the course of the public hearing may be made orally since they become part of the transcript of the proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1297 (October 1997).

§1103. Pre-Hearing Notices

By order of the board or any panel thereof and not less than 10 days prior to a public hearing, the trial attorney and any respondent shall mutually exchange pre-hearing notices which shall set forth:

1. a brief but comprehensive statement of the party's contentions, including a list of the legal authorities to be relied upon at the hearing in support of the party's legal position;
2. a detailed itemization of all pertinent facts established by stipulations and admissions;
3. a detailed itemization of the contested issues of fact;
4. a detailed itemization of the contested issues of law;
5. a list and brief description of all exhibits to be offered in evidence by a party, identified by the exhibit number to be used at the hearing. Exhibits to be used for impeachment or rebuttal need not be included on the list. Stipulations as to exhibit authenticity and/or admissibility shall be noted on the exhibit list. In addition, copies of all documents to be offered in evidence shall be attached to the notice;
6. a list of witnesses a party may call and a short statement as to the nature (but not to the content) of their testimony. Except for the witnesses listed, no other witnesses may be called to testify except for good cause shown. This requirement shall not apply to impeachment and rebuttal witnesses;
7. a statement as to any other matter not included in any of the previous headings which may be relevant to a prompt and expeditious disposition of the case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1297 (October 1997).

§1104. Pre-Hearing Conference

A. The board or panel of the board may, in its discretion or upon request of any party, require the holding of a pre-hearing conference. All parties to the hearing shall appear at the specified time and place to consider:

1. simplification of issues;
2. possibility of stipulations, admissions of facts or documents;
3. limitations on witnesses;
4. such other matters as may be pertinent.

B. If a pre-hearing conference is held, the board may issue an order setting forth the actions which took place at the conference. This order shall control the subsequent course of the proceedings unless modified by further order for good cause, and shall be binding on all parties whether or not present at the conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1297 (October 1997).

Chapter 12. Penalties

§1201. Penalties for Violations; Criteria

A. Except as otherwise provided by law or these rules, after a public hearing and upon finding a violation of any law within its jurisdiction, the board may impose penalties or other sanctions consistent with the provisions of any law within its jurisdiction.

B. In determining the amount of the penalty or the type of sanction to impose, the board may consider:

1. the nature, circumstances, extent, and gravity of the violation;

2. the degree of culpability of the person charged;
3. the person's history of previous offenses;
4. the existence of prior notice that the described conduct was prohibited;
5. the person's ability to pay;
6. the financial or other loss to the governmental entity;
7. the damage suffered by the governmental entity;
8. any other matters that justice requires.

C. Upon finding a violation of the *Code of Governmental Ethics* or any other law within its jurisdiction, the board shall have 90 days in which to determine the proper penalty and/or sanction to impose for such a violation.

D. The executive secretary shall notify the respondent, by mail, of the board's decision with respect to the assessment of penalties and/or other sanctions within 10 days of the board's final decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1297 (October 1997).

§1202. Late Filing; Notice

A. The staff shall mail, by certified mail, a notice of delinquency within two business days after the due date for any report or statement due under any law within the board's jurisdiction which has not been timely filed.

B. If the date on which a report is required to be filed occurs on a weekend or holiday, the report shall be filed no later than the first working day after the date it would otherwise be due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997).

§1203. Late Filing; Automatic Penalties

The staff shall automatically assess and order the payment of late filing fees for any failure to timely file any report or statement due under any law within the board's jurisdiction in accordance with the appropriate fee schedule provided in §1204.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997).

§1204. Late Filing; Fee Schedule

A. The late filing fees for election campaign finance reports shall be as provided in R.S. 18:1505.4.

B. The late filing fees for any lobbyist required to register and file reports shall be as provided in R.S. 24:58(D).

C. The late filing fees for any violation of R.S. 42:1114 or 1124 shall be as provided in R.S. 42:1124(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997).

§1205. Late Filing; Appeal and Good Cause

A. Any person assessed with automatic late filing fees may appeal, in writing, to the board within 30 days after the mailing of the order requiring the payment of late filing fees. The executive secretary shall place all such appeals on the next board agenda for the board's consideration.

B. The board may waive late filing fees for good cause shown. *Good cause* means any actions or circumstances which, in the considered judgment of the board, were not within the control of the late filer and which were the direct cause of the late filing or any provision specified in R.S. 18:1511.5(B). Any late filer wishing to have a good cause determination shall file a written statement with the executive secretary, within 30 days of the mailing of the order for payment of late filing fees, requesting a good cause waiver by the board and setting forth the facts which tend to prove that the late filer had good cause for filing late. The late filer may request an appearance.

C. The executive secretary shall place all such requests on the next board agenda for the board's consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997).

§1206. Late Filing; Failure to Pay Penalties Assessed

The board, after notice to the late filer, may authorize the staff to file a civil action against any person who fails to pay the automatic penalties assessed pursuant to §§1203-1204.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997).

Chapter 13. Records and Reports

§1301. Custodian

The executive secretary shall be the custodian of all records, reports, and files of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997).

§1302. Copies

A. The public may request and obtain copies of any public documents or reports filed with the board. The fees for such copies shall be determined in accordance with the fees set by the Division of Administration.

B. Copying fees which exceed \$50 shall be by check or money order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997).

§1303. Statements Filed Pursuant to Section 1111(E) of the Code of Governmental Ethics

A. Statements filed pursuant to Section 1111(E) of the *Code of Governmental Ethics* shall:

1. be made under oath; and
2. contain:
 - a. the name and address of the elected official;
 - b. the name and address of the person employing or retaining the official to perform the services;
 - c. a description of the nature of the work and the amount of the compensation for services rendered or to be rendered; and
 - d. a brief description of the transaction in reference to which services are rendered or to be rendered.

B. The executive secretary shall maintain these statements suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997).

§1304. Statements Filed Pursuant to Section 1114 of the Code of Governmental Ethics

A. Statements filed pursuant to Section 1114(A) of the *Code of Governmental Ethics* shall:

1. be made under oath; and
2. contain:
 - a. the amount of income or value of anything of economic value derived;
 - b. the nature of the business activity;
 - c. the name and address, and relationship to the public servant, if applicable; and
 - d. the name and business address of the legal entity, if applicable.

B. Statements filed pursuant to Section 1114(B) of the *Code of Governmental Ethics* shall:

1. be made under oath; and
2. contain:
 - a. the amount of income or value of anything of economic value derived;
 - b. the nature of the business activity;
 - c. the name and address and relationship to the legislator, if applicable; and
 - d. the name and business address of the legal entity, if applicable.

C. Statements filed pursuant to Section 1114(C) of the *Code of Governmental Ethics* shall:

1. be made under oath; and
2. contain:
 - a. the amount of income or value of anything of economic value derived;
 - b. the nature of the business activity;
 - c. the name and address, and relationship to the elected official, if applicable; and
 - d. the name and business address of the political subdivision, if applicable.

D. The executive secretary shall maintain these statements and files appropriately indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1299 (October 1997).

§1305. Statements Filed Pursuant to Section 1120 of the Code of Governmental Ethics

A. Statements filed pursuant to this Section 1120 of the *Code of Governmental Ethics* shall:

1. be made under oath; and
2. contain:
 - a. the name and address of the elected official; and
 - b. a detailed description of the matter in question, including the description of the transaction to be voted upon as well as a description of the nature of the conflict, or potential conflict, and the reasons why, despite the conflict, the elected official is able to cast a vote that is fair, objective, and in the public interest.

B. The executive secretary shall maintain these statements suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1299 (October 1997).

§1306. Affidavits Filed Pursuant to Section 1123(16) of the Code of Governmental Ethics

A. Affidavits filed pursuant to Section 1123(16) of the *Code of Governmental Ethics* shall:

1. be filed within 60 days of making the public speech;
2. be under oath; and
3. contain:
 - a. the name of the sponsoring group or organization; and
 - b. the amount expended on behalf of the legislator by the sponsoring group or organization on food, refreshments, lodging, and transportation.

B. The executive secretary shall maintain these statements suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1299 (October 1997).

§1307. Notices Filed Pursuant to Section 56(A) of the Lobbyist Disclosure Act

A. Notices filed pursuant to Section 56(A) of the Lobbyist Disclosure Act shall:

1. be filed not less than 30 days prior to the fundraising function;
2. be in writing; and
3. contain:
 - a. the name of the legislator by or for whom the fundraising function is being given;
 - b. the date of the fundraising function;
 - c. the location of the fundraising function.

B. When filed by anyone other than a legislator, the notice shall also provide the name of the individual, group, or organization giving or sponsoring the fundraising function.

C. The executive secretary shall maintain these statements suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1299 (October 1997).

§1308. Disclosure Forms Filed Pursuant to R.S. 39:1233.1

A. Disclosure forms filed pursuant to R.S. 39:1233.1 shall:

1. be in writing and on the proper form approved by the Board of Ethics;
2. contain:
 - a. the name and address of the public servant;
 - b. the public position held by the public servant;
 - c. the name and address of the bank;
 - d. the position held with the bank by the public servant and whether that position is compensated or noncompensated; and
 - e. a description of the transaction from which the public servant recused himself from participating; and
3. be signed by the public servant.

B. The executive secretary shall maintain these forms suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1299 (October 1997).

§1309. Disclosure Forms Filed Pursuant to R.S. 42:1119(B)(2)(a)

A. Disclosure forms filed pursuant to R.S. 42:1119(B)(2)(a) shall:

1. be in writing and on forms approved by the Board of Ethics;
2. be filed no later than 30 days after the beginning of the school year;
3. contain:
 - a. the name and address of the school board member or superintendent;
 - b. the name, relation, and position of the immediate family member and the date of the family member's employment;
 - c. the parish in which the school board member or superintendent serves and the date of the commencement of such service.

B. The executive secretary shall maintain these forms suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1300 (October 1997).

§1310. Disclosure Forms Filed Pursuant to R.S. 42:1114(D)(2)

A. Disclosure forms filed pursuant to R.S. 42:1114(D)(2)(a) shall:

1. be in writing and on forms approved by the Board of Ethics;
2. be filed annually, no later than May 1, and shall include required information for the previous calendar year;
3. contain:
 - a. the name and address of the legislator, person certified by the secretary of state as elected to the legislature, and each department officer;
 - b. the amount of all income or compensation of any kind for services performed for or in connection with a gaming interest, received by either the person filing, his spouse or any corporation, partnership, or other legal entity in which such person owns any interest, excepting only publicly traded corporations;
 - c. a description of the services performed for or in connection with the gaming interest;

B. The executive secretary shall maintain these forms suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1300 (October 1997).

§1311. Records and Reports; Accepting and Filing

Any record or report submitted pursuant to this Chapter shall be accepted and filed upon receipt by the staff, unless the record or report is not in compliance with the requirements established by this Chapter or by law. The names of the persons submitting records and reports which are accepted and filed shall be listed on the board's agenda. The records and reports which are not in compliance with the requirements

established by this Chapter or by law shall be placed upon the board's agenda for further action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1300 (October 1997).

Chapter 14. Disqualification Pursuant to the Provisions of Section 1112(C) of the Code of Governmental Ethics

§1401. Application

Every public employee, excluding an appointed member of any board or commission, shall disqualify himself from participating in a transaction involving the governmental entity when a violation of Section 1112 of the *Code of Governmental Ethics* would result.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1300 (October 1997).

§1402. Reporting Requirements; General

A. Every public employee, except an agency head, upon determining that he may be compelled to participate in a transaction involving the governmental entity in violation of Section 1112 of the *Code of Governmental Ethics*, shall immediately, and prior to such participation, report the details of the transaction, in writing, to:

1. his immediate supervisor,
2. his agency head, and
3. to the board.

B. Every agency head, upon determining that he may be compelled to participate in a transaction involving the governmental entity in violation of Section 1112 of the *Code of Governmental Ethics*, shall immediately, and prior to such participation, report the details of the transaction, in writing, to his appointing authority and to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1300 (October 1997).

§1403. Reporting Requirements; Impact on Governmental Entity and Alternative Measures

Upon receipt of such written communication from the public employee, the immediate supervisor of the public employee, as well as the agency head (or appointing authority, if applicable), shall immediately, and prior to such participation by the public employee, provide the board, in writing, with a report concerning the impact on the efficient operation of the governmental entity of the potential participation by the public employee and shall provide the board with reports as to alternative measures available to the public employee to prevent participation in the prohibited transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1300 (October 1997).

§1404. Action by the Board

The proposed disqualification procedure shall be implemented by the public employee and his immediate supervisor, and the public employee shall otherwise refrain

from participating in the potential transaction until such time as the board has, in writing, provided the public employee, his immediate supervisor, and his agency head with instructions as to the procedure to avoid participation in the prohibited transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1300 (October 1997).

Chapter 15. Exemption Pursuant to the Provisions of Section 1123(22) of the Code

§1501. Application

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1301 (October 1997).

§1502. Requirements

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

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

C. Individual transactions of \$250 or less are not required to be subject to the following rules. However, if such transactions involving a single elected official exceed \$2,500 in the aggregate within the calendar year, the guidelines contained in §1502.D do apply.

D. For transactions in excess of \$250 but less than \$2,500, telephone quotations with written confirmation or facsimile quotations must be solicited from at least three vendors within the municipality, the parish, or within a 50-mile radius of the municipality. However, in the case of an emergency, no quotations shall be required so long as the elected official recuses himself or herself from the transaction and files an affidavit as required in §1502.A, within three days of the occurrence of the transaction. *Emergency* shall be defined in the plan adopted by the municipality and subject to board approval.

E. In the case of a transaction in excess of \$250 but less than \$2,500, if the quotation submitted by the elected official or legal entity in which the elected official has a controlling interest is the lowest received by the municipality, the transaction is allowed. The plan adopted by the municipality

and subject to board approval may specify situations in which a quotation submitted by the elected official or his or her legal entity may be accepted, even if it was not the lowest received by the municipality.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1301 (October 1997).

Chapter 16. The Board as Supervisory Committee of the Louisiana Campaign Finance Disclosure Act

§1601. General

The Campaign Finance Disclosure Act provides that the board shall function as the Supervisory Committee on Campaign Finance Disclosure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1301 (October 1997).

§1602. Political Committees; Names

A. The name of a political committee shall not be the same as, nor deceptively similar to, the name of any other political committee.

B. The name of a political committee organized to support one candidate shall contain the name of that candidate.

C. The name of a political committee supporting or opposing more than one candidate shall not contain the name of an individual, unless the name of the committee in some way clearly reflects that it is not a committee supporting or opposing only that individual.

D. When a political committee uses an acronym in addition to its complete name, each document filed with the supervisory committee shall contain the complete name of the political committee, with the acronym in parenthesis.

E. When the name of a political committee contains a number, the number shall be spelled out in the name and the numerical symbol(s) placed in parenthesis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1301 (October 1997).

§1603. Political Committees; Filing Fees

A. A fee of \$100 shall be remitted to the supervisory committee with each statement of organization required to be filed by a political committee.

B. The \$100 fee shall be due only once per calendar year per committee. In the event that an amended statement of organization is filed by a political committee, no additional fee is required to be paid.

C. All fees paid in compliance with §1603 shall be by check drawn upon the designated depository of the political committee.

D. Certificates of registration will be issued to political committees only after a sufficient time has elapsed to insure that the check used to pay the required fee has been paid by the bank upon which it is drawn.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1301 (October 1997).

§1604. Registration and Reporting; Forms

A. The staff shall prepare and provide, upon request, forms for the registration and reporting by political committees and reporting by candidates.

B. No registration or report submitted by a political committee or report submitted by a candidate will be filed with the board unless:

1. the registration or report is on the proper form, as approved by the board, or a form which is substantially the same as the form approved by the board; and

2. as to political committees, the registration or report is signed by the appropriate representative of the political committee filing the document; or

3. as to candidates, the report is signed by the candidate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1302 (October 1997).

§1605. Provisional Registration and Reporting

Any political committee or candidate who submits a registration or report that is not on the required form shall have 10 days, from the date of receipt by the staff of the information submitted, to file the required form. If the provisions of §1605 are met, then the registration or report form shall be retroactively considered as filed on the same date the original registration or report was submitted. Any submission that was not on the proper form and which is not submitted on the correct form within the 10-day period shall not be filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1302 (October 1997).

§1606. Registration and Reporting; Incomplete and Incorrect Forms

The staff may, without board action, request additions and corrections to any registration or report filed by a political committee or report filed by a candidate or other person which would constitute a minor violation of the Campaign Finance Disclosure Act. However, the staff shall report any uncorrected or material violations of the Campaign Finance Disclosure Act to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1302 (October 1997).

§1607. Registration and Reporting; Dating, Numbering and Filing

The staff shall establish a procedure for the dating, indexing, and filing of all registrations and campaign finance disclosure reports received by the board as supervisory committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1302 (October 1997).

Appendix A

LSA-R.S. 39:1233.1 DISCLOSURE STATEMENT	
<p>The Louisiana <i>Code of Governmental Ethics</i> generally prohibits any member or chief executive officer of a local depositing authority from serving as an officer, director, or employee of a bank in which agency funds are deposited. LSA-R.S. 39:1233.1 creates a narrow exception allowing a local governing authority member or chief executive officer to serve in such a capacity, despite the agency's deposit of funds in the bank, if he (1) recuses himself from voting in favor of any such bank and does not otherwise participate in the depositing authority's consideration of any matter affecting actual or potential business with the bank, (2) discloses the reason for recusal and files these reasons, in writing, in the minutes or record of the agency, <i>and</i> (3) files this disclosure form with the Board of Ethics within 15 days of any such recusal. Any such disclosure statement shall be deemed filed when it is received in the office of the Board of Ethics or at the time it is postmarked by the United States Postal Service, if it is subsequently received in the office of the Board of Ethics, whichever is earlier. This exception may be used only by members of "local depositing authorities." Local depositing authorities are defined by law to include all parishes, municipalities, boards, commissions, sheriffs and tax collectors, judges, clerks of court, and any other public bodies or officers of any parish, municipality or township, but do not include the state, state commissions, state boards and other state agencies. Unless a written advisory opinion has been obtained from the Board of Ethics, members and chief executive officers of special agencies created by, representing OR comprised of more than one political subdivision are NOT included in this exception. Sole decisionmakers may NOT take advantage of this exception.</p>	
<p>NOTE: This exception is narrow—completion of this form will not cure any violation of the Ethics Code except those situations specifically addressed in LSA-R.S. 39:1233.1.</p>	
1. Name and address of official	2. Office held (Please include the office title and the political subdivision.)
3. Name and address of bank	4. Position(s) held at bank (If officer, state office held. If employee, give job title.)
5. Position with bank is ___ compensated ___ noncompensated. (Check one)	
6. Description of transaction from which you recused yourself from participating (for example, consideration of method of selecting bank(s) to be used, selection of a bank or banks, decision affecting deposits, decision to discontinue use of a bank, etc.). Include the date of each instance on which you recused yourself from voting or otherwise participating in any such transaction.	
7.	
Signature of official	Date
Mail or hand deliver to: Board of Ethics, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, Louisiana, 70809. If you have any questions, please call (504) 922-1400.	

R. Gray Sexton
Administrator

9710#032

RULE

Board of Elementary and Secondary Education

Board Advisory Councils (LAC 28:I.105)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Elementary and Secondary Education hereby amends LAC 28:I.105.A as follows:

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 1. Organization

§105. Board Advisory Councils

A.1. - 11. ...

12. Louisiana Proprietary School Commission (R.S. 17:3141)

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:1303 (October 1997).

Weegie Peabody
Executive Director

9710#082

RULE

Board of Elementary and Secondary Education

Bulletin 746—Driver/Traffic Safety Education

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Elementary and Secondary Education hereby revises the certification requirements in driver and traffic safety education. This is an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel.

Driver and Traffic Safety Education

- A. A valid Louisiana teaching certificate;
- B. A valid Louisiana driver's license;
- C. A driving record free of conviction of major accidents and/or repeated traffic violations.

D. Specialized Education

1. General Safety Education—3 semester hours

Basic safety information (home, school, traffic, community, and industrial safety) and general information on psychology of accident prevention.

2. Basic Information Course in Driver Education—3 semester hours

Investigation of the problems facing drivers such as those of pedestrians, cycles, alcohol and drugs, traffic engineering problems, and study of the philosophy of driver education as it exists in our society.

3. Curricular Innovations and Instructional Devices—3 semester hours

In-depth study of driver education and traffic safety curricular materials and familiarization with related instructional devices.

4. First Aid—1 semester hour

E. Revocation basis: being convicted of repeated traffic violations or any major crime or accident involved in or related to the operation of a motor vehicle.

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:1303 (October 1997).

Weegie Peabody
Executive Director

9710#083

RULE

**Department of Environmental Quality
Office of the Secretary**

Declaratory Rulings (LAC 33:I.1135)(OS022)

(Editor's Note: A portion of the following rule, which appeared on pages 1140 through 1145 of the September 20, 1997 Louisiana Register, is being republished to correct a typographical error.)

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 11. Declaratory Rulings

§1135. Consolidation and Separation of Petitions

A. When two or more petitions for declaratory ruling involve a common issue or issues of law or fact, they may be consolidated and considered as a single petition. In such cases all petitions shall be docketed under the lowest docket number.

B. Petitions may be separated to simplify the proceedings or to permit a more orderly disposition of the matters consolidated.

AUTHORITY NOTE: Promulgated in accordance R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1144 (September 1997), repromulgated LR 23:1303 (October 1997).

Herman Robinson
Assistant Secretary

9710#023

RULE

**Firefighters' Pension and Relief Fund
City of New Orleans and Vicinity**

Domestic Relations Orders

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity (the "fund") pursuant to R.S. 11:3363(F), has amended rules and regulations for determining qualified status of domestic relations orders.

Determining Qualified Status of Domestic Relations Orders

1. Intent and Construction

These procedural rules are adopted in order to satisfy the requirements of Subsection 206(d) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1056(d) and Section 414(p) of the *Internal Revenue Code*, 26 U.S.C. §414(p), and shall be construed consistently with this purpose.

The trustees are aware that §401(a)(13)(A) of the code provides that benefits under a qualified plan may not be assigned or alienated. Section 401(a)(13)(B) establishes an exception to the anti-alienation rule for assignments made pursuant to domestic relations orders that constitute Qualified Domestic Relations Orders ("QDROs") within the meaning of §414(p)(1)(B) and of Paragraph 2 hereof. In view of the trustees' intent to administer the fund as a qualified plan, as well as their awareness that R.S. 11:291 and 292 to similar effect, the purpose of these rules is to establish the trustees' willingness to recognize and enforce any QDRO that meets the requirements set forth herein.

It is further intended that the provisions of §414(p)(3) of the code and R.S. 11:291 and 292 be strictly observed. Therefore, the trustees shall not honor the terms of any QDRO that purports to require the fund to provide any type or form of benefit, or any option, not otherwise provided under the fund; that requires the fund to provide increased benefits (determined on the basis of actuarial value); or that requires the payment of benefits to an alternate payee that are required to be paid to another alternate payee under another order previously determined to be a QDRO.

However, the trustees shall not treat a domestic relations order as failing to meet the requirements of §414(p)(3)(A) and thus to constitute a QDRO solely because the order requires payment of benefits to an alternate payee on or after the participant's earliest retirement age, even if the participant has not separated from service at that time.

Finally, it is the trustees' intent to honor the provision of any QDRO that the participant's former spouse shall be treated as the participant's surviving spouse for purposes of the right to receive all or part of any survivor benefits payable, and that any other spouse of the participant shall not be treated as a spouse of the participant for these purposes, except as to portions of the survivor benefits not assigned to the former spouse via the QDRO. In the event the participant's former spouse is required by the provisions of a QDRO to be treated as a surviving spouse for these purposes, the former spouse must be accorded the same rights that would otherwise accrue to the surviving spouse.

2. Definitions

As used in these procedural rules, unless the context indicates otherwise, the following terms shall have the following meanings:

Alternate Payee—the participant's spouse (or former spouse, child, or other dependent) who is entitled to receive some or all of the fund's benefit payments with respect to the participant under the terms of the QDRO. The same QDRO may identify more than one alternate payee; and several

alternate payees may be identified in multiple QDROs. However, the trustees shall not recognize the entitlement of any alternate payee, even if specified in a domestic relations order, if the benefits assigned therein have already been assigned by reason of an earlier QDRO validly served upon the fund.

Domestic Relations Order—any judgment, decree, or order (including approval of a property settlement or community property partition) that:

(i) relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a participant; and

(ii) is made pursuant to a state domestic relations law (including a community property law).

A state court shall actually issue an order or formally approve a proposed property settlement in order for it to be recognized by the trustees as a domestic relations order. A property settlement or community property partition signed by a participant and the participant's former spouse, or a draft order to which both parties consent, shall not be considered a domestic relations order until the state authority has adopted it as an order or formally approved it and made it part of the domestic relations proceeding.

Earliest Retirement Date—the earlier of:

(i) the date on which the participant is entitled to a distribution under the fund; or

(ii) the later of:

(A) the date the participant attains age 50; or

(B) the earliest date on which the participant could begin receiving benefits under the fund if the participant separated from service.

Participant—any employee or former employee of an employer in relation to the fund, who is or may become eligible to receive a benefit of any type from the fund, and who is the individual whose benefits under the fund are being divided by the QDRO.

Qualified Domestic Relations Order—a domestic relations order that creates or recognizes the existence of an alternate payee's right (or assigns to an alternate payee the right) to receive all or a portion of the benefits payable with respect to a participant in the fund, provided that the order:

(i) clearly specifies:

(A) the name and last known mailing address (if any) of the participant and the name and mailing address of each alternate payee covered by the order or, in the event the alternate payee is a minor or legally incompetent, the name and address of the alternate payee's legal representative;

(B) the amount or percentage of the participant's or the survivor benefits to be paid by the fund to each such alternate payee, or the manner in which such amount or percentage is to be determined;

(C) the number of payments or the period to which such order applies; and

(D) the name and identity of the fund;

(ii) does not require:

(A) the fund to provide any type or form of benefits, or any option, not otherwise provided under the fund;

(B) the fund to provide increased benefits (determined on the basis of actuarial value); or

(C) the payment of benefits to an alternate payee that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

Trustees—the Board of Trustees for the Firefighters' Pension and Relief Fund for the City of New Orleans, or such person or entity to whom the board has delegated responsibility to make determinations on its behalf under these rules.

3. QDRO Language

Many factors should be taken into account by the drafters of a QDRO in determining which benefits to assign to an alternate payee and how these benefits are to be assigned. Because of the complexity and variety of the factors that should be considered and the need to tailor the assignment of benefits under a QDRO to the individual circumstances of the parties, it would be inappropriate for the trustees to propose specific sample language for inclusion in a QDRO. Instead, individual participants and alternate beneficiaries, and their respective attorneys, are directed to collaborate jointly upon the drafting of orders that meet their individual needs. Nevertheless, if so requested, the trustees shall review any proposed order submitted to the fund prior to its submission to the appropriate court for execution and entry, with a view to indicating the trustees' probable determination concerning its status as a QDRO. The trustees are required by law to honor and enforce the terms of any QDRO which meets the conditions specified in these rules and as may subsequently be determined by the applicable statutes and the courts' interpretations thereof.

For further guidance concerning those matters that should be considered when drafting a QDRO (e.g., types of benefits, approaches to dividing retirement benefits, form and commencement of payment to alternate payees, survivor benefits and treatment of former spouse as participant's spouse, and tax treatment of benefit payments made pursuant to a QDRO) the parties are encouraged to consult Notice 97-11 issued by the Internal Revenue Service and appearing in *Internal Revenue Bulletin* 1997-2 dated January 13, 1997. Additional guidance may be found in the Pension Benefit Guaranty Corporation's booklet entitled *Divorce Orders and PBGC*, which discusses the special QDRO rules that apply for plans that have been terminated and are trustee by PBGC, and provides model QDROs for use with those plans. The publication may be obtained by calling PBGC's Customer Service Center at 1-800-400-PBGC, or electronically via the PBGC Internet site at "<http://www.pbgc.gov>." However, some or all of the principles there set forth may not apply to this fund by reason of its status as a statutory governmental plan and/or the types of benefits payable under R.S. 11:3361 et seq.

4. Notice

Upon the fund's receipt of a domestic relations order with respect to a participant, the trustees shall promptly give notice of these procedural rules to the participant and to each person specified in the order as entitled to payment of any fund benefits under the order, at the address the order specifies.

5. Determination

(a) The trustees shall determine whether a domestic relations order is a qualified domestic relations order within a reasonable time after it is received, and shall have the right to require such evidence as he may reasonably need to make the determination.

(b) The trustees shall notify the participant and the alternate payee of the determination no less than 30 days before making any payment pursuant to the order, if it is determined to be a qualified order, or within a reasonable time if it is determined not to be a qualified order.

(c) The participant may appeal such a determination to the trustees upon written application to the trustees. The participant may review any documents pertinent to the appeal and may submit issues and comments in writing to the trustees. No appeal shall be considered unless it is received by the trustees within 90 days after receipt by the participant of written notice of the determination.

(d) The trustees shall decide the appeal within 60 days after it is received. If special circumstances require an extension of time for processing, however, a decision shall be rendered as soon as possible, but not later than 120 days after the appeal is received. If such an extension of time for deciding the appeal is required, written notice of the extension shall be furnished to the participant prior to the commencement of the extension.

(e) The trustees' decision shall be in writing and shall include specific reasons for the decision, expressed in a manner calculated to be understood by the participant and the alternate payee.

6. Payments Pending Determination

During any period in which the issue whether a domestic relations order is a qualified domestic relations order is being determined (by the trustees, by a court of competent jurisdiction, or otherwise), the trustees shall segregate in a separate account in the fund the amounts that would have been payable to the alternate payee during such period if the order had been determined to be a qualified domestic relations order.

(a) To the extent that the domestic relations order is determined to be qualified, the fund shall pay the segregated amounts (plus any interest on them) to the person or persons entitled to them according to the terms of the order. In the case of determinations appealed under these procedural rules, the payment shall be made not less than 10 days nor more than 30 days after the issuance of the trustees' disposition of the appeal.

(b) To the extent that the domestic relations order is determined not to be qualified, the fund shall pay the segregated amounts (plus any interest on them) to the person or persons who would have been entitled to such amounts without regard to the terms of the order. In the case of determinations appealed under these procedures, the payment shall take place not less than 10 days nor more than 30 days after the issuance of the trustees' disposition of the appeal.

(c) To the extent that the issue whether the domestic relations order is qualified is not resolved within 18 months after the fund receives notice of the order, the trustees shall pay the segregated amounts (plus any interest on them) to the

person or persons who would have been entitled to these amounts without regard to the terms of the order.

7. Representative of Alternate Payee

An alternate payee, by written notice to the trustees, may designate a representative for receipt of copies of notices that are sent to the alternate payee with respect to a domestic relations order.

William M. Carrouché
President

9710#015

RULE

Department of Health and Hospitals Board of Pharmacy

Education (LAC 46:LIII.701 and 737)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and Pharmacy Law, R.S. 37:1178, the Board of Pharmacy hereby amends LAC 46:LIII.701 and 737.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 7. Pharmacy Education

§701. Pharmacy College or Equivalent

A. Approved College of Pharmacy. Colleges or schools of pharmacy which are accredited by the American Council of Pharmaceutical Education (ACPE); or

B. Equivalent College. World Health Organization's (WHO) "World Directory of School of Pharmacy" or other board recognized foreign college or school of pharmacy graduate who has attained equivalency status approved by 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 23:1306 (October 1997).

§737. Continuing Pharmacy Education Requirements

Minimum Requirements. A minimum of one and one-half CPE units, or 15 hours, shall be required each year as a prerequisite for pharmacist re-licensure. When deemed appropriate and necessary by the board, some or all of the 15 hours may be required on specific pharmacy subjects. Implementation of this Section would require notification to all Louisiana pharmacists prior to January 1 of the year in which the CPE is required.

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 23:1306 (October 1997).

Fred H. Mills, Jr.
Executive Director

9710#010

RULE

Department of Health and Hospitals Board of Pharmacy

Licensure Renewal and Status (LAC 46:LIII.507)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and Pharmacy Law, R.S. 37:1178, the Board of Pharmacy hereby amends LAC 46:LIII.507.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 5. Pharmacists

§507. Pharmacists Licensure Renewal and Status

A. Renewal. The annual pharmacist license renewal application shall be mailed prior to November 1 each year, by the board, to all currently licensed Louisiana pharmacists. The completed application along with the necessary fee must be submitted to the board by December 31 of each year.

B. Renewal Fee. The annual renewal fee for licensure shall be determined by the legislature and/or the board.

C. Licensure Status

1. Active. Pharmacist applicant actively engaged in the practice of pharmacy must pay annual fee, attain minimum CPE as required, complete and file annual renewal form with the board office before December 31 of each year.

2. Military. Louisiana pharmacists may request waiver of annual renewal fees while in the active military service of the United States or any of its allies. Pharmacist must provide proof of military service and request waiver of fees and notify the board in writing when the waiver is no longer applicable. The military pharmacist must complete and return the annual renewal form to the board before December 31 of each year.

3. Gold Certificate. Pharmacist has practiced pharmacy and/or maintained pharmacist license in good standing for 50 years and has received a gold certificate from the board. Gold certificate holders are exempt from CPE and annual renewal fee, however, they are requested to complete the annual renewal form in order for the board office to maintain current records.

4. Inactive. A pharmacist who is not actively practicing pharmacy in the state may request in writing an inactive status license from the board. The inactive pharmacist must complete the annual renewal form furnished by the board and return it with the proper fee to the board before December 31 of each year. The inactive pharmacist would not have to obtain CPE. Inactive pharmacists must petition the board and meet requirements of the reinstatement committee and the board to upgrade an inactive license to active status. The board may set the requirements necessary to assure competency for each individual. Inactive pharmacists receiving a gold certificate must remain on inactive status unless active status has been obtained as listed above.

5. Retired. Louisiana pharmacists who do not wish to renew their license may notify the board office in writing that they have retired from the profession. Retired pharmacists

will not remain on the mailing list of the board. Retirement for a period not exceeding five years shall not deprive the pharmacist of the right to renew the registration upon written application to the board and by payment of lapsed fees, without penalty.

6. Expired. A license which has not been renewed annually shall be null and void.

a. The holder of a license which has expired may be reinstated only upon written application to the board and upon payment of all lapsed fees and a penalty to be fixed by the board at not more than 50 percent of the original fee. Other conditions of reinstatement may be required at the discretion of the board.

b. A renewal application for a lapsed license must be requested by the pharmacist in writing and the completed application may be referred to the board's reinstatement committee for disposition in accordance with R.S. 37:1187.

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 23:1306 (October 1997).

Fred H. Mills, Jr.
Executive Director

9710#012

RULE

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

Parenteral/Enteral Pharmacy (LAC 46:LIII.2107)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and Pharmacy Law, R.S. 37:1178, the Board of Pharmacy hereby amends LAC 46:LIII.2107.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 21. Parenteral/Enteral Pharmacy

§2107. General Requirements

A. Expiration Date. Individualized sterile preparations of Total Parenteral Nutrition (TPN), Hyperalimentation (Hyperal), and Total Enteral Nutrition (TEN) shall be prepared extemporaneously for immediate utilization and shall not have an expiration date beyond seven days. Other sterile parenteral and epidural therapy preparations or admixtures shall be prepared extemporaneously and, unless specified by the manufacturer, shall not have an expiration date beyond seven days.

B. - K.8. ...

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 23:1307 (October 1997).

Fred H. Mills, Jr.
Executive Director

9710#009

RULE

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

Pharmacy Practice (LAC 46:LIII.Chapters 9 and 11)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and Pharmacy Law, R.S. 37:1178, the Board of Pharmacy has amended LAC 46:LIII.Chapters 9 and 11 as follows:

1. Existing text in §§901-917 will be recodified in Chapter 11; and new text pertaining to Pharmacy Practice will be promulgated in Chapter 9.

2. Existing text in §919 (Pharmacy Support Staff and Supportive Personnel) is being replaced with entirely new text.

3. Existing text in §1101 is being replaced by a portion of the existing Chapter 9 text.

4. New Chapter 9 is entitled "Pharmacy Practice."

5. New Chapter 11 is entitled "Pharmacies."

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 9. Pharmacy Practice

§901. Pharmacy

The practice of pharmacy in the state of Louisiana is, and has been declared, a professional practice, affecting the public health, safety and welfare and is subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the practice of pharmacy merit and receive the confidence of the public, and that only qualified persons be permitted to practice pharmacy in the state of Louisiana. (R.S. 37:1221)

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), repromulgated LR 19:1024 (August 1993), amended LR 23:1307 (October 1997).

§903. Definition

Practice of Pharmacy or Practice of the Profession of Pharmacy—the compounding, filling, dispensing, exchanging, giving, offering for sale, or selling drugs, medicines, or poisons, pursuant to prescriptions or orders of physicians, dentists, veterinarians, or other licensed practitioners, or any other act, services operation or transaction incidental to or forming a part of any of the foregoing statements, requiring, involving or employing the

science or art of any branch of the pharmacy profession, study or training. (R.S. 37:1222)

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), repromulgated LR 19:1025 (August 1993), amended LR 23:1307 (October 1997).

§905. Reserved.

(Editor's Note: New text replacing the subject matter in §905 was proposed through a Notice of Intent, page 809, of the June 1997 Louisiana Register. The Board of Pharmacy elects, at this time, to postpone amending this Section; however, the existing §905 contains text pertaining to "Pharmacist Absence/Disclosure," which is being recodified and repromulgated as §1105 in this final rule. Therefore, in order to reserve §905 for future "Practice of Pharmacy" text, the board is repealing the existing, redundant text.

Repeal of §905 has no fiscal impact; additionally, the Joint House and Senate Health and Welfare Oversight Committee Chairmen have been notified of this technical change, prior to publication.)

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), repromulgated LR 19:1025 (August 1993), repealed LR 23:1308 (October 1997).

§907. Pharmacy Primary Care

Pharmacy primary care is bringing health care as close as possible to where people live and work and may constitute a portal of entry into the continuing health care process in an effort to enhance optimum therapeutic outcomes. Frequently, pharmacy primary care is the initial level of contact of individuals, the family, and the community with the health care delivery system, which may ensure total pharmacy care.

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), repromulgated LR 19:1025 (August 1993), amended LR 23:1308 (October 1997).

§909. Pharmacy Collaborative Practice

Pharmacy collaborative practice is that practice whereby a pharmacist has agreed to work in conjunction with one or more physicians licensed to practice medicine under written protocol. Any collaborative practice protocol shall adhere to established guidelines which have been approved and jointly promulgated by the Louisiana State Board of Medical Examiners and the Louisiana Board of Pharmacy.

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), repromulgated LR 19:1025 (August 1993), amended LR 23:1308 (October 1997).

§911. Practice of Pharmacy by Louisiana Licensed Pharmacists

The practice of pharmacy in the state of Louisiana shall be limited to pharmacist licensed by the Louisiana Board of Pharmacy and holding a current renewal. Nothing in this Chapter or these regulations shall prevent any exceptions as listed in R.S. 37:1204.

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), repromulgated LR 19:1025 (August 1993), amended LR 23:1308 (October 1997).

§913. Pharmacy Practices

The stocking, storing, compounding and dispensing of legend drug medications shall be performed in a Louisiana permitted pharmacy or licensed facility. The practice of pharmacy is not limited to the physical facility. The practice of pharmacy may include any and all or a combination of the following listed practices although not necessarily limited to those listed as follows:

1. dispensing pharmacy practice;
2. compounding pharmacy practice;
3. clinical pharmacy practice;
4. community pharmacy practice;
5. hospital pharmacy practice;
6. industrial clinic pharmacy practice;
7. nuclear pharmacy practice;
8. parenteral/enteral pharmacy practice;
9. institutional pharmacy practice;
10. manufacturing pharmacy practice;
11. teaching pharmacy practice;
12. regulatory pharmacy practice;
13. consultant pharmacy practice;
14. administrative pharmacy practice;
15. collaborative pharmacy practice;
16. governmental pharmacy practice;
17. research pharmacy practice;
18. informational pharmacy practice;
19. primary care pharmacy.

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 18:1379 (December 1992) effective January 1, 1993, repromulgated LR 19:1025 (August 1993), amended LR 23:1308 (October 1997).

§915. Dispensing Pharmacy Practice

Louisiana licensed pharmacists prescription dispensing is the receiving and interpretation of the prescription, and the issuance of one or more doses of medication in a suitable container properly labeled for subsequent administration with the necessary counseling provided.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 18:1379 (December 1992) effective January 1, 1993, repromulgated LR 19:1026 (August 1993), amended LR 23:1308 (October 1997).

§917. Compounding Pharmacy Practice

Compounding by a Louisiana licensed pharmacist means the preparation or mixing of one or more ingredients for dispensing as a result or in anticipation of a practitioner's prescription order or initiative based on a practitioner/pharmacist/patient relationship.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 18:1379 (December 1992) effective January 1, 1993, repromulgated LR 19:1026 (August 1993), amended LR 23:1308 (October 1997).

§919. Clinical Pharmacy Practice

Clinical pharmacy practice is that division of pharmacy primarily associated with patient care with particular emphasis on drug regimen selection and treatment. Clinical pharmacy as a part of total pharmacist care may be extended to other classifications.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 18:1380 (December 1992) effective April 1, 1993, repromulgated LR 19:1026 (August 1993), amended LR 23:1309 (October 1997).

§921. Community Pharmacy Practice

For community pharmacy practice requirements and regulations refer to Chapter 13 of these 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 17:780 (August 1991), LR 19:1027 (August 1993), LR 23:1309 (October 1997).

§923. Hospital Pharmacy Practice

For hospital pharmacy practice requirements and regulations refer to Chapter 25 of these 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 17:780 (August 1991), LR 19:1027 (August 1993), LR 23:1309 (October 1997).

§925. Industrial Clinic Pharmacy Practice

For industrial clinic pharmacy practice requirements and regulations refer to Chapter 17 of these 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 17:780 (August 1991), LR 19:1027 (August 1993), LR 23:1309 (October 1997).

§927. Nuclear Pharmacy Practice

For nuclear pharmacy practice requirements and regulations refer to Chapter 19 of these 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 17:780 (August 1991), LR 19:1028 (August 1993), LR 23:1309 (October 1997).

§929. Parenteral/Enteral Pharmacy Practice

For parenteral/enteral pharmacy practice requirements and regulations refer to Chapter 21 of these 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 17:780 (August 1991), LR 19:1028 (August 1993), LR 23:1309 (October 1997).

§931. Institutional Pharmacy Practice

For institutional pharmacy practice requirements and regulations refer to Chapter 15 of these 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 23:1309 (October 1997).

§933. Manufacturing Pharmacy Practice

Manufacturing pharmacy practice is that practice devoted to the selection of raw materials, proper storage, processing, production, assaying, labeling and distribution of pharmaceutical products for proper resale or dispensing in accordance with all 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 23:1309 (October 1997).

§935. Teaching Pharmacy Practice

Teaching pharmacy practice includes those pharmacists who hold themselves as instructors, educators or disseminators of pharmacy information to students of pharmacy, medical or allied health care colleges, or provide continuing pharmacy education to Louisiana licensed pharmacists.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1309 (October 1997).

§937. Regulatory Pharmacy Practice

Regulatory pharmacy practice includes those pharmacists who are engaged in promoting, promulgating, or enforcing official rules which govern the practice of pharmacy in the state of 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 23:1309 (October 1997).

§939. Consultant Pharmacy Practice

A. Consultant pharmacy practice is practiced by pharmacists who perform Drug Regimen Review (DRR) as the systematic evaluation of medication therapy view within the context of patient-specific data, as a quality assurance process oriented towards enhancing therapeutic outcome of pharmacologic agents and optimizing medication therapy of patients.

B. Consultant pharmacists shall be familiar with the requirements of pharmaceutical services and medication use as well as proper utilization, indications, contraindications, allergies, treatment rationale, therapeutic plans and laboratory findings as they relate to the overall pharmacist care of the patient.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1309 (October 1997).

§941. Administrative Pharmacy Practice

Administrative pharmacy practice includes documentation and proper record keeping required in the various practices as required by federal and state law as well as 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 23:1309 (October 1997).

§943. Collaborative Pharmacy Practice

For collaborative pharmacy practice requirements see §909 of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1309 (October 1997).

§945. Governmental Pharmacy Practice

Governmental pharmacy practice occurs and includes the employment of any person who holds himself to be a pharmacist in the employment of any federal, state, local government or any part thereof or regarding the practice of pharmacy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997).

§947. Research Pharmacy Practice

Research pharmacy practice includes the engagement of a pharmacist in the research and development of new drugs or new dosage forms; or the conduction of clinical or toxicological trials or the development of new entities or new usages in the industrial, clinical or public health sectors.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997).

§949. Informational Pharmacy Practice

Informational pharmacy practice primarily includes but is not necessarily limited to pharmacists practicing in drug information centers, poison control centers or medical information networks where medication information is communicated and disseminated by the pharmacist to professional practitioners, patients or concerned persons.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997).

§951. Primary Care Pharmacy

For primary care pharmacy practice refer to §907 of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997).

Chapter 11. Pharmacies

§1101. Pharmacy

A. Definition

Pharmacy—an establishment licensed as such by the board where the profession of pharmacy may be practiced.

B. Qualification. Individuals, partnerships, associations, or corporations desiring to operate a pharmacy establishment in Louisiana, or outside the state when prescription drugs and medications are dispensed and delivered to Louisiana consumers, shall have the pharmacist who is pharmacist-in-charge complete and sign the application to the board for the particular classification of pharmacy. Each application shall contain satisfactory proof of good moral and temperate habits of the owner(s) or major stockholders. The applicants, including the responsible pharmacist-in-charge, may be requested to personally appear before the board prior to a decision on the permit application.

C. Pharmacy Permit

1. **Initial.** A pharmacy permit application shall be available from the board and shall be submitted to the board

for approval. The licensed pharmacist who will be the pharmacist-in-charge shall complete the form and include the following information:

- a. name and address of pharmacy;
- b. specialty classification of pharmacy;
- c. type of ownership;
- d. name and address of all owners. If a partnership or corporation, the name, title and address of managing officers;
- e. a copy of the lease agreement; or, if the location of the pharmacy is owned by the pharmacy, a statement certifying such location ownership; and
- f. a signature and license number of the pharmacist-in-charge; and
 - i. if the pharmacist-in-charge is not the owner, a signature of the owner; or
 - ii. if a partnership or corporation, the signature of an executive officer.
- g. date of opening;
- h. name and license number of other pharmacists employed; and
- i. notarization of application and/or supporting documents which may be required at the discretion of the board.

2. **Renewal.** A pharmacy permit shall be renewed annually by January 1 and, if not renewed, shall be null and void on January 15.

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 23:1310 (October 1997).

§1103. Pharmacy Operation

A licensed pharmacist, in good standing, shall be on duty at all times during regular open hours of the pharmacy which shall total a minimum of 40 hours per week and consist of a minimum of five days per week with a minimum of six hours per day.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997).

§1105. Pharmacist Absence/Disclosure

When a licensed pharmacist is absent from the prescription department the prescription department must be securely closed and made nonaccessible to unauthorized personnel. A sign, the size of 8½ x 11 inches with the following wording in black letters one-inch high, "PRESCRIPTION DEPARTMENT CLOSED," shall be displayed in a conspicuous position in front of the prescription department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997).

§1107. Pharmacist-in-Charge

An initial and renewal pharmacy permit application shall be timely submitted to the board and designate and identify the licensed pharmacist-in-charge who shall be a full-time employee providing sufficient time in supervising to protect the public health, safety, and welfare.

1. Authority. The designated pharmacist-in-charge of the pharmacy shall be responsible for complete supervision, management, and compliance with all federal and state pharmacy laws and regulations pertaining to the practice of pharmacy of the entire prescription department.

2. Circumvention. It is a violation of the pharmacy permit for any person to subvert the authority of the pharmacist-in-charge by impeding the management of the prescription department in the compliance of federal and state pharmacy laws and regulations.

3. Termination. Notice shall be required when the pharmacist-in-charge resigns, retires, is terminated or transferred, and this disclosure must be afforded the board in writing by the permit holder and the new pharmacist-in-charge within 10 days of the departure or transfer.

4. Resignation or Retirement. A pharmacist-in-charge, practicing in Louisiana, must give 10 days written notice of resignation or retirement to his employer unless replaced in a shorter time period. An employer may excuse any pharmacist for failure to give notice for sickness or for other emergencies.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997).

§1109. Prescription

Prescription—an order for a drug, chemical, device or a combination thereof, either written, given orally or otherwise transmitted to a licensed pharmacist by a licensed physician, dentist or veterinarian, to be dispensed or compounded in a permitted pharmacy and dispensed by a licensed pharmacist to the patient or agent, along with necessary and appropriate 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 23:1311 (October 1997).

§1111. Transmission of Prescriptions

A. Receipt of a Prescription

1. Written. A pharmacist may receive and dispense a bona fide prescription which has been written and/or signed by the practitioner.

2. Oral. A pharmacist may receive and dispense a bona fide prescription which has been orally communicated by the practitioner when the prescription has been reduced to hard copy.

3. Electronic Transmission. A pharmacist may receive and dispense a bona fide prescription communicated from a practitioner, via facsimile or other means, and then the prescription must be reduced to hard copy. When receiving a prescription transmitted in this manner the pharmacist must indicate on the hard copy the mode of transmission as well as the phone number of the practitioner making the transmission.

B. Verification. Verification of the accuracy and authenticity of any prescription is the responsibility of the pharmacist.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997).

§1113. Prescription Dispensing

Prescription Dispensing—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 23:1311 (October 1997).

§1115. Patient Counseling

A. *Patient Counseling*—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

1. 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:

a. name, address, telephone number;

b. date of birth (age), gender;

c. medical history;

- i. disease state(s);
- ii. allergies/drug reactions;
- iii. current list of medications and devices.

2. 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.

3. 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 23:1311 (October 1997).

§1117. Prospective Drug Review

A. 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.

B. Upon recognizing any of the above, the pharmacist using professional judgment 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 23:1312 (October 1997).

§1119. Labeling

An appropriate label shall be affixed to a proper container with the following information:

1. pharmacy's name;
2. pharmacy's address and telephone number;
3. prescription serial number;
4. authorized prescriber's name;

5. patient's name;
6. date dispensed;
7. directions for use, as indicated;
8. drug name and strength;
9. pharmacist's last name and initial; and
10. cautionary auxiliary labels, if applicable.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997).

§1121. Pharmacy Prepackaging

A. Prepackaging is the packing of medications in a unit of use container, by a licensed pharmacist, in a Louisiana permitted pharmacy prior to the receipt of a prescription for ultimate prescription dispensing by a pharmacist in Louisiana.

B. Labeling. The label on the prepackaged container shall contain the following information:

1. drug name;
2. dosage form;
3. strength;
4. quantity;
5. name of manufacturer and/or distributor;
6. manufacturer's lot or batch number;
7. date of preparation;
8. pharmacist's last name and initial;
9. expiration date.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997).

§1123. Drug Administration

Drug administration is the providing of a single unit final dose form of medication for a patient upon orders and directions for use by a licensed pharmacist in compliance with an authorized prescriber's order.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997).

§1125. Mechanical Drug Dispensing Devices

Dispensing of prescription legend drugs directly to a patient by mechanical devices or machine is prohibited.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997).

§1127. Prescription Department Requirements

A pharmacy commencing operation after January 1, 1989, or an existing operation continuing at a new or remodeled location, must meet the following minimum requirements.

1. Structure. A prescription department must provide sufficient and adequate structural space for safe and appropriate drug dispensing and compounding.

2. Prescription Department Area. The prescription department is a restricted area that shall be not less than 200 total square feet that is inaccessible to the public.

3. Prescription Counter. A prescription counter on which to compound or dispense medications must have a free working surface of not less than 2 feet in width nor less than 12 feet in length or a minimum of 24 total square feet. The minimum unobstructed free working surface must be kept

clear at all times for the compounding or dispensing of prescriptions.

4. Prescription Aisle Space. The aisle space behind the prescription counter shall not be less than 30 inches in width.

5. Prescription Department Plumbing. The prescription department shall have, in close proximity of the prescription counter, a sink equipped with available hot and cold running water.

6. Drug Inventory/Fixtures. The pharmacy shall provide sufficient shelf and drawer or cabinet space for proper storage of labels, prescription containers, and an adequate prescription inventory in order to compound and dispense prescription orders.

7. Pharmacy Security. The board requires that adequate protection of the prescription and drug department be secured by the installation of partitions and secured entrances, which shall be locked by a pharmacist when the prescription department is closed in order to avoid the diversion of dangerous drugs; and shall be inaccessible to the public; and the key shall be maintained by the pharmacist-in-charge or a pharmacist designee.

a. For emergency access only, a key to the prescription department may be available elsewhere. When this emergency key is utilized, the name of the person entering the prescription department, the date and time of entry, as well as the nature of the emergency shall be entered in a log maintained in the pharmacy department. At the next available opportunity, the pharmacist-in-charge shall sign and date the log verifying the emergency.

b. Storage. Adequately secured storage is required for legend drugs to avert diversion or theft.

8. Contents. The following references, equipment, and supplies shall be required.

a. Reference. Current editions with supplements of the following:

i. Louisiana Board of Pharmacy laws, rules, and regulations;

ii. United States Pharmacopoeia Dispensing Information: Advice for the Patients;

iii. one of the following is required: Pharm-Index or Facts and Comparisons.

b. Equipment Minimum Requirements

i. suitable Class "A" balance;

ii. accurate set of weights;

iii. set of graduates;

iv. mortars and pestles;

v. spatulas;

vi. funnels;

vii. ointment slab; and

viii. typewriter, or equivalent.

c. Supplies

i. prescription files;

ii. bottles, vials, and other suitable containers;

iii. labels;

iv. empty capsules;

v. powder papers; and

vi. filter papers.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997).

Fred H. Mills, Jr.
Executive Director

9710#008

RULE

Department of Health and Hospitals Board of Pharmacy

Pharmacy Technicians (LAC 46:LIII.Chapter 8 and §2535)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and Pharmacy Law, R.S. 37:1178, the Board of Pharmacy hereby adopts LAC 46:LIII.Chapter 8, Pharmacy Technicians and amends LAC 46:LIII.2535, Pharmacy Technicians (performing in a hospital pharmacy).

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 8. Pharmacy Technicians

§801. Definition

Pharmacy Technician—person who assists in the practice of pharmacy under the direct and immediate supervision of a licensed Louisiana pharmacist and is qualified by the Board of Pharmacy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1313 (October 1997).

§803. Qualifications

A. To qualify as a Louisiana pharmacy technician a candidate shall meet the following conditions:

1. Age—at least 18 years of age.

2. Character—good moral character and be nonimpaired.

3. Citizenship—candidate shall be a citizen of the United States, or hold proof of lawful permanent residence (green card).

4. Education—high school graduate or equivalent and successfully complete a board-approved didactic pharmacy technician program.

5. Experience—obtain the necessary on-site training hours in board-approved sites.

6. Examination—successfully complete the board-approved pharmacy technician examination.

B. Exception. A licensed Louisiana pharmacist whose license has been denied, revoked, suspended or restricted for disciplinary reasons shall not be eligible to be a Louisiana pharmacy technician.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1313 (October 1997).

§805. Education

A pharmacy technician applicant shall meet all the following minimal education standards. These minimal standards are to ensure the protection of the public's health, safety and welfare.

1. Didactic Program. The applicant shall successfully complete a board-approved didactic pharmacy technician program and during this program may obtain structured on-site experience under an authorized on-site training work permit.

2. On-Site Training

a. The applicant shall successfully complete the board-approved on-site training pharmacy technician program. This program is an integral part of the permit process and training hours can only be credited after the completion of the didactic program.

b. Training Hours

i. A minimum of 200 training hours of structured on-site experience.

ii. A maximum of 40 hours per week.

iii. The pharmacy technician applicant shall within a 90-day period from date of completion of a didactic program successfully complete an on-site training program.

3. Completion. The didactic and on-site training program as well as the board-approved pharmacy technician examination shall be successfully completed within one year.

4. Pharmacy Technician On-Site Training Work Permit.

An on-site training work permit listing the pharmacy technician applicant, the pharmacist-in-charge and the on-site training location (name and complete address), shall be issued by the Board of Pharmacy, in order for the pharmacy technician applicant to perform pharmacy technician functions, providing this work is performed only under the personal, direct, and immediate supervision of a licensed Louisiana pharmacist and in a setting not to exceed a one-to-one, on-duty ratio.

a. Application for On-Site Training Work Permit. The pharmacist-in-charge shall apply to the board for an on-site training work permit. The application shall contain the pharmacy technician applicant's name; the beginning date of the didactic program; the name and the license number of the pharmacist-in-charge; the name, complete address, and permit number of the pharmacy; and shall be signed and dated by the pharmacist-in-charge and the pharmacy technician applicant.

b. Scope of On-Site Training Work Permit. On-site training work permits are issued for a specific site and specific pharmacy technician applicant.

c. Expiration. On-site training work permits shall expire 180 days from date of issue by the board or upon termination of employment of the pharmacy technician applicant or failure of any pharmacist or site to meet requirements.

d. Any licensed Louisiana pharmacist may be a supervising pharmacist for the pharmacy technician on-site training program provided that said pharmacist is not on probation.

e. Pharmacy technician on-site training may be authorized at any permitted Louisiana pharmacy not on probation.

f. The pharmacist-in-charge shall provide to the board a properly executed affidavit of completion when the necessary on-site training is achieved.

g. Issuance of On-Site Training Work Permits. The board shall reserve the right to refuse to issue or to recall on-site training work permits for due cause or if necessary requirements are not met.

h. On-site training work permit shall be on display in the pharmacy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1314 (October 1997).

§807. Pharmacy Technician Examination

Initial Application. After completion of the didactic and on-site training program the board shall furnish to the pharmacy technician applicant an application for a pharmacy technician examination upon request. An application for the pharmacy technician examination shall be completed and signed by the candidate, notarized, accompanied by the examination fee as established by the board, and submitted to the board office for processing at least 30 days prior to examination.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1314 (October 1997).

§809. Examination

A. The Board of Pharmacy approved technician examination shall consist of integrated subject disciplines as the board may deem appropriate.

B. The technician examination will be offered when necessary as determined by the board.

C. A minimum score of 75 shall be obtained for an applicant to meet minimum examination requirements.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1314 (October 1997).

§811. Pharmacy Technician Certificate

The board may issue a pharmacy technician certificate to an applicant successfully completing all board requirements.

1. Technician Certificate Duplication. In the event of a loss or destruction of a certificate, the board may issue a duplicate of the original certificate upon receipt of a notarized application and fee for reproduction.

2. Technician Certificate Display. The technician certificate shall be displayed in a conspicuous place in or near the prescription department in such a manner that said certificate can be seen by the public. The annual pharmacy technician renewal shall be attached to the front of or posted next to the certificate.

3. Identification. Pharmacy technicians shall be identified by a name badge and "Pharmacy Technician" designation while working in the pharmacy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1314 (October 1997).

§813. Implementation

A. Those persons previously completing a support staff training program and having worked a minimum of 200 hours as a support staff person in a Louisiana pharmacy under §919 or §2535 as of October 1, 1997, or before, shall be considered to have met the requirements of the didactic program and the on-site technician training program required in this Chapter. An affidavit, signed by the pharmacist-in-charge and the support staff person, properly notarized and attesting to the necessary facts shall accompany the application for the pharmacy technician examination in order to obtain this exemption.

B. All support staff persons shall apply for and pass the pharmacy technician examination in order to obtain a pharmacy technician certificate.

C. Support staff persons will have until April 30, 1998 to meet the requirements and obtain a pharmacy technician certificate. After April 30, 1998, all persons practicing as pharmacy technicians shall hold a current pharmacy technician certificate issued by the Louisiana Board of Pharmacy.

D. Pharmacy technician certificates issued prior to June 30, 1998, will be considered current until the first required renewal date of June 30, 1998. Thereafter, in order to remain current, each pharmacy technician shall renew their certificate annually as required in this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1315 (October 1997).

§815. Annual Pharmacy Technician Renewal

A. The board shall mail a renewal application to all pharmacy technicians holding a current renewal no later than May 1 of each year. The properly completed renewal application and fee shall be submitted annually to the board 30 days prior to expiration which shall be June 30 of each calendar year.

B. Delinquent Technician Certificate. A certificate which is not renewed by July 15 of each year shall be null and void, and the certificate holder shall not be in good standing as a pharmacy technician in the state of Louisiana.

C. Lapsed Certificate. A renewal application and all outstanding fees and penalties, to be fixed by the board, for a lapsed technician certificate may be referred to the board for consideration.

D. Renewal Fee. The annual renewal fee for certificate 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 23:1315 (October 1997).

§817. Address Change

A pharmacy technician holding a certificate in Louisiana shall notify the board, in writing, within 10 days of any change of mailing and/or home address, giving old and new address and certificate number.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1315 (October 1997).

§819. Employment Change

A pharmacy technician shall notify the board, in writing, within 10 days of a change in employment, listing technician name and certificate number, the name, address, and permit numbers of old and new employment pharmacies.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1315 (October 1997).

§821. Duties

A. The pharmacy technician may perform certain functions and duties as assigned by the supervising pharmacist while under his/her personal, direct and immediate supervision.

B. Prohibitive Acts

1. The pharmacy technician shall not interpret the prescription.

2. The pharmacy technician shall not receive original oral, telephone, or facsimile prescription orders.

3. The pharmacy technician shall not compound high-risk preparations. Under written protocol the pharmacy technician may reconstitute and perform low-risk manipulation of sterile preparations limited to closed-system transfers.

4. The pharmacy technician shall not counsel patients.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1315 (October 1997).

§823. Pharmacist-Only Functions

A. Dispensing Responsibilities

1. The pharmacist shall interpret, evaluate, and implement all prescriptions: written, oral, or otherwise.

2. The pharmacist shall review the completed prescription for accuracy and compliance before the prescription is released from the prescription department.

3. The pharmacist shall provide patient counseling and drug information, as necessary.

B. Supervising Responsibilities

1. All tasks performed by pharmacy technicians in the pharmacy shall be accomplished under the direct and immediate supervision and responsibility of a licensed Louisiana pharmacist.

2. Ratio. A ratio of no more than one pharmacy technician per supervising pharmacist on duty shall be maintained.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1315 (October 1997).

§825. Impaired Pharmacy Technician

An impaired pharmacy technician is a pharmacy technician unable to perform duties with reasonable skills or safety necessary to protect the public because of:

1. chemical dependence—repeated alcohol and/or drug use culminating in a pattern of chemical need manifested by:

a. alcoholism—a chronic, progressive disease which involves the use of alcohol to a degree of impeding functional competence of the permittee; or

b. drug abuse—improper or excessive nontherapeutic use of a drug to the detriment of the public and/or the individual; or

2. mental illness; or
3. physical deterioration; or
4. neurologic degeneration; or
5. central nervous system disease.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1315 (October 1997).

§827. Impaired Technician Reporting

A pharmacy technician or pharmacist who has knowledge that a pharmacy technician or pharmacist is impaired shall report relevant confidential information to 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 23:1316 (October 1997).

§829. Revocation, Suspension or Probation

A. After due notice and opportunity for a hearing, the board may revoke, suspend, or place on probation a pharmacy technician certificate for any of the following causes:

1. when the pharmacy technician certificate or qualification is found to have been obtained by fraudulent means;
2. when the pharmacy technician has been convicted of felony or is found by the board to be guilty of gross immorality or impaired to such a degree as to render him unfit to complete technician duties;
3. when the pharmacy technician is found to have violated the pharmacy laws and regulations of the board;
4. when sufficient evidence is obtained and the interlocutory committee by an affirmative majority decision and in the committee's judgment the technician poses a danger to the respondent and/or to the health, safety and welfare of the public, the interlocutory committee of the board may summarily suspend the certificate of a pharmacy technician prior to a formal administrative board hearing.

B. Notice of Decision of Board; Appeal

1. If an applicant for any pharmacy technician certificate, or renewal thereof, is refused, or, if any certificate is suspended or revoked, the board shall notify the applicant in writing of its decision and the reasons therefor.

2. Any person to whom the board has refused to issue a pharmacy technician certificate, or whose certificate has been suspended or revoked, may appeal from the decision and order of the board to any court of competent jurisdiction, within 30 days after the refusal, suspension, or revocation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1316 (October 1997).

§831. Injunction

The board may apply to a court of competent jurisdiction over the parties and subject matter, for a writ of injunction to restrain violations of the provisions of this Chapter. This injunction shall not be released upon bond.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1316 (October 1997).

Chapter 25. Hospital Pharmacy

§2535. Pharmacy Technicians

Pharmacy personnel performing pharmacy technician functions in a hospital pharmacy shall hold a current pharmacy technician certificate from the Louisiana Board of Pharmacy and adhere to the requirements of Chapter 8 of these 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 23:1316 (October 1997).

Fred H. Mills, Jr.
Executive Director

9710#011

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code—Mechanical Sewage Treatment Plant (Chapter XIII)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the secretary of the Department of Health and Hospitals has amended Chapter XIII, Appendix A, of the State Sanitary Code by adding Section A:6.10, Consumer Alert, to alert consumers of their responsibility to have the electrical components of individual mechanical sewage treatment plants wired and properly connected.

Rule

Chapter XIII. Sewage Disposal

* * *

Add Section A:6.10 to read:

A:6.10 Consumer Alert

If a consumer currently owns, is contemplating purchasing and having installed, or is an installer of individual mechanical sewage treatment plants, that consumers should pay particular attention to this notice.

It has become apparent that the electrical components of individual mechanical sewage treatment plants which require connection to a source of electricity may not be properly connected to that electrical source in some cases. Specifically, mechanical sewage treatment plants using electrical power may require a properly installed Ground Fault Current Interrupter (GFCI).

The Office of Public Health has specific statutory authority and mandates to protect the public health from the improper treatment and disposal of sewage. This office will offer the public consultation with regard to the appropriate sewage treatment system that should be used in a specific application, considering system design for properly treating sewage, sizing for the number of people using the system, location of the system, and other health considerations, as necessary. However, the Office of Public Health does not have the authority to inspect or approve electrical connections, are not

qualified in the area of such electrical connections and will not assume responsibility for such electrical safety considerations.

Accordingly, this is an advisory that proper electrical connections must be made to the air pump/blower and/or any other electrical components that are integral parts of an individual mechanical sewage treatment plant, and that a qualified electrician should perform or examine the installations for appropriate wiring and installation, as well as the connection to the Ground Fault Current Interrupter.

* * *

Bobby P. Jindal
Secretary

9710#013

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code—Notification of Contacts to Persons with HIV Infection (Chapter II)

Under the authority of R.S. 40:5 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health amends Chapter II of the *Louisiana Sanitary Code*.

The epidemic of AIDS and infection with Human Immunodeficiency Virus (HIV) is a severe health threat to Louisiana, and there are many aspects to the efforts by the state health officer and his representatives to control the epidemic. The following Paragraph is to be added to the *Sanitary Code* to clarify the role of the state health officer in notification of sexual partners of persons infected with human immunodeficiency virus. While other sections of Chapter II of the *Sanitary Code* give the state health officer broad authority to institute control measures whenever a case of a communicable disease occurs, questions have been raised as to how this authority is to be used regarding cases of HIV infection. The procedure described in this Paragraph is consistent with current and historical practices and with national guidelines.

Chapter II. The Control of Diseases

2:009-1 The state health officer shall make a good faith effort to notify individuals who are spouses and/or sexual contacts to persons with Human Immunodeficiency Virus (HIV) infection of their exposure, offer them counseling about their risk of infection, and offer them testing for HIV infection. In performing this activity, the state health officer or his/her designee shall initially contact the primary medical provider of the person who has HIV infection, if such medical provider can be identified, and ask if the infected person or the medical provider intends to conduct this notification. If neither the infected person nor the medical provider intends to notify spouses or sexual partners of the exposure, the state health officer or his/her designee shall attempt to interview the infected person directly to identify these partners for

counseling and testing. Notification of partners shall be conducted in such a manner as to maintain the confidentiality of the infected person.

Bobby P. Jindal
Secretary

9710#014

RULE

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

Medical Assistance Program—Nursing Facilities Vendor Payments (LAC 50:II.10146)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 3. Standards for Payment

Chapter 101. Nursing Facilities

Subchapter F. Vendor Payments

§10146. Medical Eligibility Determination Requirements

A. The following documentation requirements and procedures are required in order to obtain medical certification for vendor payment for services in nursing facilities and hospice in nursing facilities.

B. Timely Request for Medical Certification for Nursing Facility New Admissions Time Frames. The following time frames must be met when requesting medical certification for persons entering nursing facilities. Conversion from Medicare status to Medicaid vendor payment is considered a new admission.

1. The Health Standards Section must receive a complete packet of admission information within 20 working days of admission.

2. If an incomplete admission packet is received, certification will be denied. The reason for denial will be given as incomplete information provided.

3. If additional information is subsequently received within the initial 20-working-day time frame, and the residents meet all requirements, the effective date of certification is the date of admission.

4. If the additional information is received after the initial 20-day time frame, and the residents meet all requirements, the effective date of certification is no earlier than the date all completed requirements are received by the Health Standards Section.

C. Forms to Submit for New Admissions

1. Form 148 (Notice of Admission or Change) which:

a. verifies the individual's admission as a private pay resident or indicates that Medicaid or Medicare certification is being requested;

b. provides the date of the resident's application for Medicaid if later than the date of admission.

2. Form 90-L (Request for Level of Care Determination) which:

a. is signed and dated by a physician licensed in Louisiana and specifies the level of care being requested;

b. is completed fully and includes prior living arrangements and previous institutional care;

c. is completed not more than 30 days prior to admission or application if the resident applies for Medicaid after admission.

3. Level I PAS/RAS (Pre-admission Screening/Readmission Screening) Form which:

a. is signed and dated by a physician licensed in Louisiana;

b. if a second level screen is indicated due to a diagnosis of or suspected diagnosis of mental illness or mental retardation, is completed prior to admission unless approved by Health Standards under a categorical determination;

c. lists diagnosis and medication on the 90-L consistent with PAS/RAS.

D. Forms to Submit for Readmission from the Hospital

1. Form 148 which indicates:

a. the date Medicaid billing was discontinued if the bed was held; or

b. the date the resident was discharged to the hospital if the bed was not held;

c. the date of the resident's readmission to the facility and whether they are readmitted as Medicare or Medicaid status;

2. Form 90-L or transfer form or discharge summary or physician's orders which must specify diagnosis, medication regime, level of care, and must include a dated physician's signature.

3. A newly completed PAS/RAS is required under the following conditions:

a. if the resident was in a psychiatric hospital or unit;

b. if the resident is now receiving psychotropic medication, due to a mental illness not previously treated, and was not prior to hospitalization;

c. if there was a significant change in behavior, related to the mental illness diagnosis, that precipitated the hospital admission.

NOTE: A significant change in behavior will require that the resident be referred for second level screening.

E. Forms to Submit for Facility to Facility Transfer

1. The discharging facility must complete Form 148 with the date of discharge and destination.

2. The receiving facility must complete:

a. Form 148 indicating date of admission; and

b. Form 90-L or transfer form or physician's orders which includes diagnosis, medication regime, level of care, physician's signature, and date.

F. Forms to Submit for New Admission to SNF 18 (Medicare) with Medicaid Co-Insurance

1. Form 148 which:

a. clearly specifies that Medicare coverage is claimed; and

b. indicates whether or not the facility is seeking Medicaid coverage for co-insurance and if so, gives an effective date for co-insurance to begin;

2. Form 90-L completed within 30 days of admission;

3. Level I PAS/RAS (Pre-admission Screening/Readmission Screening) Form.

NOTE: A three-day qualifying hospital stay (not counting the date of discharge from the facility) is required by Medicare before a resident is eligible to receive benefits on a Medicare skilled unit. A facility cannot claim hospital leave days covered by Medicaid during a Medicare benefit period. If the resident is in a Medicare bed at the time of transfer to the hospital, the facility may not claim bed hold days covered by Medicaid.

G. Forms to submit for Readmission from the Hospital Directly to SNF 18 (Medicare). Submit Form 148 which indicates the date that Medicaid co-insurance will be effective. No further information is required until the resident converts to Medicaid vendor payment.

H. Forms to Submit for Termination of Medicare with Change from Medicaid Co-insurance to Medicaid Vendor Payment

1. Form 148 which indicates the date the Medicare benefit period ends and first date of Medicaid coverage;

2. New or updated Form 90-L. An updated 90-L may be submitted in lieu of having a new one completed. An updated 90-L is one that has been reviewed by the attending physician, includes any changes in diagnosis or treatment regimen, and has been re-signed and dated by the physician. This is viewed as a new admission because Medicare is a different payment source, and the resident must be considered discharged from Medicare status in order to convert from Medicare to Medicaid. For this reason, another 90-L is required and must be submitted within 20 working days of admission.

3. If utilization review by the facility initiates a status change, attach a copy of the facility's denial form. If Medicare covers the full 100 days, then attach verification of this.

NOTE: Medicaid vendor payment cannot be claimed until a resident has reached maximum benefits under Medicare.

I. Forms to Submit for Death of a Resident. Submit Form 148 which must specify whether the death of the resident occurred in the nursing facility or in the hospital and the date of death.

J. Forms to Submit for Admission to LOC Skilled Nursing/Infectious Disease (SN-ID)

1. Certification Criteria for SN-ID AIDS

a. Residents must meet a severity of illness and require an intensity of service which includes comprehensive skilled nursing care provided by staff who have specialized training and skills in caring for persons with AIDS.

b. Documentation submitted by the facility must reflect that this level of service is required and is being provided.

c. Payment or reimbursement is not made solely on the basis of an individual's diagnosis of AIDS or being HIV+. Reimbursement is not intended to be approved on a long-term basis but may be considered for time limited periods in order to meet the fluctuating medical needs of this population.

d. Medical certification will be considered by Health Standards upon receipt of the following information:

i. For all new admissions, Forms 148, 90-L, and PAS/RAS must be completed as required for other nursing facility admissions. When requesting level of care change, Form 149-B may be submitted in lieu of the 90-L.

ii. Sufficient information to support the need for extraordinary services must be submitted, including but not limited to:

(a). intermittent or continuous IV therapy, respiratory therapy, nutritional therapy, or other intervention;

(b). administration of highly toxic pharmaceutical and/or experimental drugs which include close monitoring of side effects;

(c). continuous changes in treatment plan for symptom control;

(d). daily medical/nursing assessment for highly unstable condition;

(e). continuous monitoring for tolerance level, skin integrity, bleeding, persistent diarrhea, pain intensity, mental status, nutritional status, tuberculosis (monthly sputum for acid fast bacteria).

2. Certification Criteria for SN-ID MRSA (Methicillin Resistant *Staph aureus*)

a. Payment or reimbursement is not made solely on the basis of a diagnosis of MRSA or on the need for isolation as there are other types of infections that require isolation procedures but are not reimbursed at the SN-ID rate. It is intended to provide reimbursement for the additional registered nurse hours required for the administration of IV antibiotics in the facility.

b. The enhanced rate will be approved only for the days that IV therapy is actually administered.

c. Medical certification will be considered by Health Standards upon receipt of the following information:

i. For all new admissions Forms 148, 90-L, and PAS/RAS must be completed the same as for other nursing facility admissions. When requesting level of care change, Form 149-B may be submitted in lieu of the 90-L.

ii. The following additional information is required to support this level of care:

(a). the date of an onset of the MRSA infection;

(b). physician's orders, specific to each resident's care relating to the MRSA infection, to include an order for IV therapy;

(c). laboratory reports verifying the diagnosis of MRSA;

(d). a detailed description including measurements of any lesions or other tissue involvement;

(e). documentation that appropriate isolation procedures were carried out (description) from the date of the level of care request.

K. Timely Requests for Medical Certification for Hospice Care in Nursing Facilities. These requirements are in addition to those previously published January 20, 1996 in the Medicaid Standards for Payment for Nursing Facilities (§10157, Subchapter H, Admission Review and Pre-admission Screen).

1. All required admission information and all completed forms must be received within 20 working days of admission to the facility or transfer to hospice care if the recipient is already a resident in the facility.

2. The assessment by the hospice RN and the hospice plan of care shall be completed not more than 30 days prior to the date hospice care was initiated.

3. If an incomplete admission packet is received, certification will be denied. The reason for denial will be given as incomplete information provided.

4. If additional information necessary to make a determination is subsequently received within the initial 20-working-day time frame and the residents meets all requirements, the effective date of certification is the date of admission to hospice care.

5. If additional information necessary to make a determination is received after the initial 20-day time frame, the effective date is no earlier than the date all completed requirements are received by the Health Standards Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1317 (October 1997).

Bobby P. Jindal
Secretary

9710#097

RULE

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

Nonemergency Medical Transportation Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following, as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the enrollment requirement for participation in the Nonemergency Medical Transportation Program to include a requirement for those vehicles funded by the Department of Transportation and Development (DOTD). The DOTD transit logo displayed on these vehicles will be accepted as appropriate identification for enrollment in the Nonemergency Medical Transportation Program.

Bobby P. Jindal
Secretary

9710#095

RULE

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

Professional Services Program—Chiropractic Care Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the rule "Chiropractic Care" adopted on March 20, 1996 (*Louisiana Register*, Volume 22, Number 3, pages 216 and 217) by adopting the following additional provisions to govern chiropractic services under the Professional Services Program of the Medicaid State Plan.

I. Reimbursement Provisions for all Recipients Regardless of Age

A. Only manual manipulations of the spine are payable as follows.

1. CPT physical medicine code 97260 is reimbursed \$10.50 per unit and one unit per day is allowed.
2. CPT physical medicine code 97261 is reimbursed \$6 per unit and two units per day are allowed.

B. Radiology Procedures

1. Only the following CPT radiology procedure codes are payable:

72010	72052	72080	72114	72020
72069	72090	72120	72040	72070
72100	72072	72050	72074	72110

2. The maximum expenditure for radiology procedures per recipient per state fiscal year is \$200 among all chiropractic providers.

II. Service Limitations

A. A chiropractic care service is defined by the Medicaid Program as a medically necessary manual manipulation of the spine performed on one to three areas of the spine.

B. Recipients 21 years of age and older are allowed a maximum of 12 chiropractic services for 12 different dates of service per state fiscal year. Prior authorization must be obtained for the thirteenth and subsequent chiropractic services up to a maximum of 18 services. Approval shall be based on the determination of medical necessity by the fiscal intermediary.

C. Recipients 5 through 20 years of age are allowed a maximum of 12 chiropractic services for 12 different dates of service per state fiscal year without prior authorization having to be obtained or documentation of medical necessity having to be submitted. Reimbursement for the thirteenth and subsequent spinal manipulations shall pend for medical review and shall be paid only if provided as the result of a referral from an EPSDT medical screening provider.

D. Recipients from birth through 4 years of age are eligible to receive chiropractic care services only if each

service is prior authorized. Requests to treat a child under 4 years of age must be received and prior authorized before the first treatment is administered. Claims for dates of service prior to the authorization date will not be considered for payment.

III. Prior Authorization

The treatment plan must be prior authorized by the fiscal intermediary for all manual manipulations for recipients under 4 years of age and for recipients 21 years of age and older after the provision of the thirteenth chiropractic service. Changes to the approved treatment plan must be resubmitted to the fiscal intermediary for approval prior to implementing changes in the treatment plan in order to receive reimbursement.

IV. Funding Limitation

The bureau shall reimburse claims for chiropractic services only up to the extent that funds are authorized by the legislative appropriation of the 1996-1997 General Appropriations Act.

Bobby P. Jindal
Secretary

9710#067

RULE

**Department of Insurance
Office of the Commissioner**

Insurance Property and Casualty
Cost of Defense (Regulations 38 and 41)

Pursuant to the provisions of R.S. 49:950 et seq., the commissioner of Insurance hereby repeals Regulation 38 and Regulation 41 in their entirety. These are duplicative regulations, both of which address the use of defense expense shifting provisions in liability insurance contracts.

Preamble

Like the majority of states, the Louisiana Department of Insurance (hereafter LDOI) has held to a long-standing policy that the costs associated with the investigation and defense of a claim are to be borne by the liability insurer in addition to the limits of liability. This departmental policy is rooted in the custom of the industry which, since the inception of liability coverage, has been to provide the insured with a defense for any claim which might trigger coverage under the policy even if the claim was "groundless, false or fraudulent," and the costs incurred in defending such a claim were paid by the insurer. This tradition is so ingrained that liability coverage is frequently referred to as "litigation insurance," Jeffery W. Stempel, *Interpretation of Insurance Contracts—Law and Strategy for Insurers and Policyholders*, at 780 (Ed. 1994). While it is said that the insurer "bears the cost of defense," actually, those costs (investigation and defense) are key components of the rate structure and are included in the premium paid by the insured. Thus, by providing a defense, the insurer is merely performing the obligation for which it has already received consideration.

With the adoption of Regulation 38 in 1991 and Regulation 41 in 1993, Louisiana made a slight deviation from its traditional position by making an allowance for the approval of policies which included the cost of defense within the limits of liability. This discretionary approval was applicable to three types of professional coverage and for directors' and officers' coverage. The impetus for this shift in position was to keep Louisiana competitive by remaining current with nationwide market changes.

However, at the same time there remained a deep concern on the part of the LDOI about protecting the interests and expectations of the public and policyholders. The past few years, since the adoption of Regulation 41, have seen the proliferation of insurance contracts containing a variety of provisions which seek to shift the cost of defending a suit away from the insurer and onto the insured. In order to respond to these new variations the LDOI finds that it is necessary to revisit the issue of defense costs.

In reviewing this issue we are guided by the following principles extrapolated from the *Louisiana Insurance Code*:

1. "Insurance is a business affected with the public interest, and it is the purpose of this code to regulate that business in all its phases." (See LSA-R.S. 22:2)

2. Insurers are required to obtain prior approval for any rate or policy which they intend to use in Louisiana. The purpose for prior approval is to protect policyholders and the public. (See LSA-R.S. 22:620, 22:623 and 22:1403)

3. Liability policies are issued for the protection of injured persons. (See LSA-R.S. 22:655)

We also take guidance from traditional civilian principles found in the *Civil Code* and in the jurisprudence. It is important to remember that insurance contracts are contracts of adhesion. See the "Comments to Civil Code" Article 2056 and 15 *Civil Law Treatise* §3. As was stated by the Louisiana Supreme Court in *South Central Bell v. Cajon Food Stores*, 637 So.2d 133 (La. 1994), in an insurance contract, "the parties' relationship ... involves no open-term bargaining of comparably informed equals, but 'adhesion contract' qualities and a significant disparity in insurance expertise."

It is the statutory duty of the LDOI to bring some equality to the bargaining table by monitoring contractual provisions in order to protect the interests of the public and policyholders. At the same time, a balance must be maintained in order to keep a viable and competitive insurance market in Louisiana.

The common rationale provided by the industry in advocating the various revisions to the defense obligation is that shifting back to the insured part of the risk of the cost of defense is a more viable option than increasing premiums, and that because of the escalating costs of providing a defense, one or the other is unavoidable. However, the industry has not provided any hard data to substantiate their position. Nor has it demonstrated that other viable options for controlling the cost of defense are not available. In the absence of such information, the LDOI has determined that it will not approve the wholesale use of contractual provisions which shift the costs of defending a suit, or a portion thereof, to the insured.

However, the LDOI has determined that the repeal of Regulations 38 and 41 will provide it with the flexibility

necessary to keep pace with changing market forces. The LDOI, utilizing its normal procedures for review of policy forms, will consider for approval the use of certain contractual provisions which offset the cost of defense for limited classes of insureds, under specific types of coverage, and with minimum liability limits.

Rule

Regulation 38. Defense Costs within Limits—Directors and Officers Liability Only

Repealed in its entirety.

Regulation 41. Costs of Defense within Limits

Repealed in its entirety.

The repeal of Regulations 38 and 41 is effective October 20, 1997.

James H. "Jim" Brown
Commissioner

9710#053

RULE

Department of Public Safety and Corrections Gaming Control Board

Delivery of Documents, Petition for Agency Review of Rules (LAC 42:III.111 and 112); Video Poker (LAC 42:XI.2405, 2413, 2415); Riverboat Gaming—Standard Financial Statements (LAC 42:XIII.2709)

The Gaming Control Board hereby adopts LAC 42:III.111 and 112 and amendments to LAC 42:XI.2405, 2413, 2415, and LAC 42:XIII.2709 in accordance with R.S. 27:1 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 1. General Provisions and Scope

§111. Delivery of Documents

A. All new applications, renewal applications, notices and any other written communication or documentation required to be furnished to the board or the division, by any statutory provision, regulation or rule, shall be submitted via delivery by the United States Postal Service, or a private or commercial interstate carrier.

B. Documentation delivered by any means other than as provided in §111.A shall not be accepted.

C. Upon written request, the provisions of §111 may be waived by the chairman in writing and upon a showing of good cause.

D. Section 111 shall not apply to gaming employee permit applications.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1321 (October 1997).

§112. Petition for Agency Review of Rule

A. All petitions for agency review made pursuant to R.S. 49:953(C) shall be in writing and shall contain the following information:

- 1. a copy of the rule change proposed, whether for adoption, amendment, or repeal;
- 2. a statement of the proposed action requested, whether the rule change is proposed for adoption, amendment, or repeal; a brief summary of the content of the rule change proposed if for adoption or repeal; and a brief summary of the change in the rule if proposed for amendment;
- 3. the specific citation of the enabling legislation purporting to authorize the adoption, amending, or repeal of the rule;
- 4. a statement of the circumstances which require adoption, amending, or repeal of the rule.

B. Petitions for agency review shall be submitted in writing to the Gaming Control Board at its office in Baton Rouge.

C. The petition shall be considered at a scheduled meeting of the Gaming Control Board.

D. The decision of the board relative to recommendations for rule changes in accordance with §112 may be made in any lawful manner.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997).

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2405. Application and License

A. Initial and Renewal Applications

3. All new applications or renewals shall be submitted to the division via delivery by the United States Postal Service certified or registered mail, return receipt requested or a private or commercial interstate carrier.

B. Requirements for Licensing

12.a. All licensees shall continue to operate the business described in the application during the term of the license. In the event either the business or the video draw poker devices at the location are not in operation for a period of 30 consecutive calendar days during which the business would normally operate, the licensee and device owner shall immediately notify the division of such fact and the licensee shall immediately surrender its license to the board of division.

b. If surrendered in accordance with §2405, no gaming activities may be conducted at the premises, however the license may be returned to the licensee upon continuance of business operations during the unexpired term of the license.

c. Licenses surrendered in accordance with §2405.A shall not be subject to renewal unless returned to the licensee during the unexpired term of the license.

d. Failure to surrender the license as provided in §2405.A shall constitute grounds for revocation or suspension of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq. and R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997).

§2413. Devices

H. Devices Permanently Removed from Service

2. The completed device transfer report shall be submitted to the division within five business days by the United States Postal Service certified or registered mail, return receipt requested or private or commercial interstate carrier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq. and R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997).

§2415. Gaming Establishments

D. Structural Requirements for Licensed Establishments

1. No licensed establishment shall be altered, renovated, or expanded if such alteration, renovation, or expansion is for the purpose of moving devices or installing additional devices, without first submitting to the division for approval, a written notification, via delivery by the United States Postal Service certified or registered mail, return receipt requested or a private or commercial interstate carrier, of the intent and a set of plans illustrating the projected changes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq. and R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997).

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming Division

Chapter 27. Accounting Regulations

§2709. Standard Financial Statements

A. Each licensee, in such manner and using such forms as the division may approve or require, shall prepare a financial statement in accordance with the rules of the division and generally accepted accounting principles covering all financial activities of the licensee's establishment for each fiscal year. If the licensee or a person controlling, controlled by, or under common control with the licensee owns or operates food,

beverage or retail facilities or operations on the riverboat, or any related shore terminals, facilities or buildings, the financial statement must further reflect these operational records. Licensees shall submit the signed, original financial statements to the division, postmarked by the United States Postal Service or deposited for delivery with a private or commercial interstate carrier, not later than September 15 following the end of each fiscal year covered by the statement. In the event of a license termination, change in the business entity, or a change in the percentage of ownership of more than 20 percent, the licensee and former licensee shall, not later than 75 days thereafter submit to the division a financial statement for said period.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq. and R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997).

Hillary J. Crain
Chairman

9710#016

RULE

Department of Public Safety and Corrections Office of Motor Vehicles

Vehicle Registration License Tax (LAC 55:III.351-365)

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles hereby adopts rules pertaining to the implementation of the annual registration license tax for motor vehicles. Currently, every vehicle registered in this state that is intended to be operated on the public highways is required to be registered and is subject to the vehicle registration license tax.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 3. License Plates

Subchapter B. Vehicle Registration License Tax

§351. Definitions

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

Acquired—any transfer of full ownership from one juridical person to another including but not limited to sales, donations, exchanges, or inheritances.

Assistant Secretary—the assistant secretary of the Department of Public Safety and Corrections, Office of Motor Vehicles.

Damage—the dollar value of repairs to the motor vehicle necessary to return the motor vehicle to its fair market value.

Department—the Department of Public Safety and Corrections, Office of Motor Vehicles.

Low Bills of Sale—values determined to be below 75 percent of the retail value as shown by the most current *N.A.D.A. Official Used Car Guide, South-Western Edition* (or its successor).

Motor Vehicle—each passenger carrying automobile, van, or other motor vehicle carrying only passengers and their personal effects exclusively, not meeting the requirements of R.S. 47:463.5 or using or operating on rails or upon permanent tracks and operated only for personal use.

N.A.D.A. Official Older Used Car Guide—periodical published by the National Appraisal Guide, Inc., which contains value projections of used motor vehicles for years not covered by the *N.A.D.A. Official Used Car Guide, South-Western Edition*.

N.A.D.A. Official Used Car Guide, South-Western Edition—periodical published by N.A.D.A. Official Used Car Guide Company which contains value projections of used motor vehicles.

Trial Court of Limited Jurisdiction—a court other than a district court having jurisdiction over civil matters including but not limited to city courts, parish courts, justice of the peace courts, and mayor's courts.

Value Guide to CARS of Particular Interest—periodical published by CPI, Ltd., which contains value projections of domestic and imported collectible cars produced since 1946.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:1323 (October 1997).

§353. Valuation of Vehicles under the Vehicle Registration License Tax Registered on or after January 1, 1990

A. For all Louisiana motor vehicle registrations that were issued prior to and expire on or after January 1, 1990, the renewal tax shall be assessed and collected as provided in §357, except that the value of the motor vehicle for purposes of the vehicle registration license tax shall be \$10,000 at the time of the first renewal of the registration after January 1, 1990, and for each subsequent renewal of the registration until such time as the motor vehicle is transferred to a new owner, or the registration is canceled and the license plate is returned to the Office of Motor Vehicles.

B. For all Louisiana motor vehicle registrations that are issued on or after January 1, 1990, the value of the motor vehicle shall be determined as provided in §355, except that the value of the motor vehicle for first and subsequent renewals shall remain the same as was determined at the initial registration and will remain the same until such time as the motor vehicle is transferred to a new owner, or the registration is canceled and the license plate is returned to the Office of Motor Vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:1323 (October 1997).

§355. Valuation of Motor Vehicles for Purposes of Initial and Subsequent Registration on or after January 1, 1990

A. Except in cases of damaged motor vehicles, donations, out-of-state transfers, or low bills of sale, the value of the motor vehicle shall be determined by the purchase price as indicated on the bill of sale or invoice.

B. In the case of donations, out-of-state transfers, or low bills of sale, the value shall be determined and based upon 75 percent of the value contained in the most current *N.A.D.A. Official Used Car Guide, South-Western Edition* (or its successor) as maintained by the office of motor vehicles. In the case of classic automobiles or other automobiles of particular interest not included in the *N.A.D.A. Official Used Car Guide, South-Western Edition* (or its successor), 75 percent of the value shall be determined by reference to the *N.A.D.A. Official Older Used Car Guide* or the *Value Guide to CARS of Particular Interest*. If the value of the motor vehicle cannot be determined by reference to any of these three guide books, the actual value of the motor vehicle shall be determined by the Office of Motor Vehicles based upon such information supplied by the person seeking to register the vehicle and such information that may be required from such person by the assistant secretary or his designee.

C. The valuation of a damaged motor vehicle shall be the value of the motor vehicle at time of acquisition as determined pursuant to §355.C. The following must be presented to the Office of Motor Vehicles to establish an actual value on such a vehicle of less than 75 percent of the book value:

1.a. An affidavit by the seller or transferor of the motor vehicle specifying in detail the nature of damage to the vehicle and a written invoice from a bona fide mechanic or repairman showing a detailed estimate of the cost of repair to said vehicle. The assistant secretary or his designee may require additional information or documentation to determine the value of the motor vehicle. Upon review of all documentation and information, the assistant secretary or his designee may add the proven damages to the sales price of the motor vehicle as is reflected in the bill of sale submitted in connection with the application to register the motor vehicle. If the total of the proven damages and the sales price is within \$1,000 of 75 percent of the book value as determined in §355.B, the vehicle shall be valued according to the sales price. If the total of the proven damages and the sales prices differs by more than \$1,000 from 75 percent of the book value as determined in §355.B, the value of the motor vehicle shall be determined by deducting the proven damages from 75 percent of the book value as determined in §355.B.

b. Upon a showing of good cause by the person applying to register the damaged motor vehicle, the assistant secretary or his designee may assign a value other than the value established pursuant to §355.B. The applicant for registration shall provide the department with such documentation as is necessary to justify this alternative valuation.

2. If the seller is a licensed new or used motor vehicle dealer, then the dealer or an employee of such dealer shall submit an affidavit specifying the nature of the damage and the sales price. The assistant secretary or his designee may

require additional information or documentation to determine the value of the motor vehicle. Upon review of all documentation and information, the assistant secretary or his designee shall calculate the value of the motor vehicle in the same manner and under the same conditions as provided in §355.C.1.

D. Motor vehicles, the ownership of which is re-acquired by the original owner within a period of two years from date of original acquisition, shall be registered at the original value upon renewal of registration by the original owner. Upon a showing of good cause by the person seeking to register the motor vehicle, the assistant secretary of the Office of Motor Vehicles may permit the vehicle to be valued as provided in §355.B or C, as the case may be.

E. Additional documentation may be required of any applicant for license or registration, including renewals, by the assistant secretary of the Office of Motor Vehicles or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:1324 (October 1997).

§357. Assessment of the Vehicle Registration License Tax

A. Every motor vehicle registered in Louisiana shall be subject to the motor vehicle license tax at a rate implemented in R.S. 47:463(A)(2) as amended by Acts 1989, Second Extraordinary Session, Number 23, §1. The vehicle registration license tax shall be assessed and collected at the time of acquisition and initial registration and at each subsequent renewal of the registration until such time as the motor vehicle is transferred to a new owner, or the registration is canceled and the license plate is returned to the Office of Motor Vehicles.

B. The vehicle registration license tax shall be assessed and collected as follows:

1. Each motor vehicle shall be taxed at a minimum of \$10 per year for the first \$10,000 value, plus \$1 per \$1,000 value in excess of \$10,000.

2. For the purpose of computing the additional tax of \$1 per each \$1,000 value, any amount of \$500 or more shall be rounded off to the next highest \$1,000 and any amount less than \$500 shall be disregarded.

3. Except as otherwise provided in this Subchapter, the value of the motor vehicle shall be determined at the time of the first registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:1324 (October 1997).

§359. Declaratory Orders and Rulings

A. Any person desiring a ruling on the applicability of R.S. 47:463 or any other statute, or the applicability or validity of any rule, to the payment of the vehicle registration license tax as it applies to the transfer, registration, or renewal of the registration of any motor vehicle shall submit a written petition to the assistant secretary. The written petition shall cite all constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which

the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

B. If the petition seeks an order or ruling on a transaction handled by the Office of Motor Vehicles, the person submitting the petition shall notify the person or persons who submitted the transaction, if other than the person submitting the petition, including any lienholder, lessee, and registered owner. Such notice shall be sent by certified mail, return receipt requested. In such case, the petition shall not be considered until proof of such notice has been submitted to the assistant secretary, or until the person petitioning for the order or ruling establishes that the person or persons cannot be notified after a due and diligent effort. The notice shall include a copy of the petition submitted to the assistant secretary.

C. The assistant secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The assistant secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the assistant secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

D. Notice of the order or ruling shall be sent to the person submitting the petition as well as the persons receiving notice of the petition at the mailing addresses provided in connection with the petition.

E. The assistant secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in §359.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2) and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:1324 (October 1997).

§361. Administrative Actions

A. The department may deny any application to register any motor vehicle if it is determined that information, documentation, or other materials submitted in connection with the application is false, inaccurate, misleading, or incomplete, or if the incorrect amount is submitted as payment of the vehicle registration license tax. The department may retain, or return to the person submitting the application, any such information, documentation or other material. The department, in its discretion, may make copies of the information, documentation or other material prior to returning said things to the person submitting the items. The notice of the denial shall be issued at the time the application is rejected and may be hand delivered to the applicant or the person submitting the application on behalf of the applicant, or may be mailed to the applicant at the discretion of the department.

B. The department may cancel, suspend or revoke the registration of any motor vehicle if it is subsequently

determined that information, documentation, or other materials submitted in connection with the application to register the motor vehicle was false, inaccurate, misleading, or incomplete, or if the incorrect amount was submitted as payment of the vehicle registration license tax. The department, in its discretion, may allow the applicant a reasonable opportunity to correct any problems prior to canceling, suspending, or revoking the registration. The notice of cancellation, suspension, or revocation shall be mailed to the applicant.

C. The applicant shall have 30 days from the date of any notice required by §361 to request an administrative hearing to review the action of the department. Any request for an administrative hearing shall only be mailed to the department at P.O. Box 64886, Baton Rouge, Louisiana, 70896-4886, or hand delivered to the Office of Motor Vehicle Headquarters in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:1325 (October 1997).

§363. Payment under Protest

A. Any person resisting the payment of any amount of the tax imposed by R.S. 47:463 shall provide notice to the assistant secretary at the time of the payment of the tax of the person's intention to file suit for the recovery of the contested amount of the tax.

B. If the contested payment of the license registration tax is submitted with an application for registration to a public tag agent, the applicant's notice required in §363.A shall be submitted to the public tag agent and a copy of the notice sent to the assistant secretary.

C. If a person other than the applicant for registration of the motor vehicle submits the contested payment with the application to the department, the applicant's notice required in §363.A shall be submitted to the department by the person submitting the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:1325 (October 1997).

§365. Valuation of Motor Vehicles Awarded Pursuant to a Judgment of a Court of Limited Jurisdiction

A. The following guidelines shall be used when determining the value of a motor vehicle, the ownership of which is acquired pursuant to a written judgment of a trial court of limited jurisdiction:

1. If the written judgment, or written reasons for judgment do not indicate that the court made a determination as to the value of the motor vehicle, the value shall be determined pursuant §355.

2. If the written judgment or the written reasons for judgment contain a determination as to the value of the motor vehicle, and such value is not less than the value of the vehicle as determined in §355, then the motor vehicle shall be valued at such amount for purposes of collecting the vehicle registration license tax.

3. If the written judgment or the written reasons for judgment contain a determination as to the value of the motor vehicle, and such value is less than the value of the vehicle as determined in §355, then the following shall apply:

a. If the judgment or reasons for judgment contain specific factual findings as to why that particular value was assigned to the motor vehicle, then the motor vehicle shall be valued at such amount for purposes of collecting the vehicle registration license tax.

b. If the judgment or reasons for judgment do not contain specific factual findings as to why that particular value was assigned to the motor vehicle, then the motor vehicle shall be valued pursuant to §355.B.

4. Any judgment that is not reduced to writing shall not be used in the determination of the value of the motor vehicle for purposes of this Subchapter.

5. If the person submitting the application to register the motor vehicle refuses to pay the vehicle registration license tax as required in §365, the department shall deny or refuse the transaction.

B. No judgment shall be processed for purposes of titling or registering a motor vehicle unless the written judgment or the written reasons for judgment contain the following information:

1. the make, model and model year of the motor vehicle;

2.a. the vehicle identification number of the motor vehicle, chassis number, or serial number as assigned by the manufacturer; or

b. the state police vehicle number assigned by a commissioned Louisiana state trooper after a physical inspection of the vehicle if the vehicle does not have a vehicle identification number assigned by the manufacturer;

3. the full name of each person or business entity in which the vehicle is to be titled and registered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:1325 (October 1997).

Thomas H. Normile
Undersecretary

9710#077

RULE

Department of Social Services Office of Community Services

Children's Trust Fund—Child Abuse
and Neglect Prevention (LAC 67:V.1001)

The Department of Social Services, Office of Community Services has amended LAC 67:V.1001 as follows:

Title 67

SOCIAL SERVICES

Part V. Community Services

Subpart 2. Community Services

Chapter 10. Children's Trust Fund

§1001. Plan for Preventing Child Abuse and Neglect

A. In accordance with R.S. 46:2406, the Louisiana Children's Trust Fund Board has adopted a plan for preventing

child abuse and neglect in Louisiana for 1997-1999, which establishes criteria for grant awards and other activities of the Louisiana Children's Trust Fund. The plan became effective subsequent to adoption by the Louisiana Children's Trust Fund Board and will form the basis for future activities of the Children's Trust Fund.

B. A copy of the plan is available for review by the public at the Louisiana Children's Trust Fund Office, 333 Laurel Street, Baton Rouge, LA 70801. Interested persons may call the office at (504) 342-2245 to make arrangements to review the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2406.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 20:898 (August 1994), amended LR 23:1326 (October 1997).

Madlyn Bagneris
Secretary

9710#098

RULE

Department of Social Services Office of Family Support

Support Enforcement—Federal
Administrative Offsets (LAC 67:III.2532)

The Department of Social Services, Office of Family Support has amended LAC 67:III.2532, Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Public Law 104-134, the Debt Collection Improvement Act of 1996, and Presidential Executive Order 13019 of September 1996, Support Enforcement Services will implement collection of past-due support by authorizing the interception of certain funds payable by the federal government. To broaden the subject base, Subchapter I is also being renamed.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter I. Tax and Other Income Offset

§2532. Federal Administrative Offsets

SES will collect past-due support by referral of appropriate cases to the United States Financial Management Service, Department of the Treasury, effective November 1, 1997. The Financial Management Service is authorized to intercept any funds payable by the federal government, not otherwise exempt from seizure, which are due a noncustodial parent who owes past-due support. Payments may include, but are not limited to, wages, salary, retirement benefits, vendor and expense reimbursement. The debt remains subject to collection until it is paid in full. The noncustodial parent will receive a 30-day advance notice prior to the referral. SES will deduct any processing fee charged by the Financial Management Service from the payment submitted to the custodial parent.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-134 and 3 CFR 13019.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:1326 (October 1997).

Madlyn B. Bagneris
Secretary

9710#096

RULE

**Department of Social Services
Office of Family Support**

Support Enforcement—Recovery Action (LAC 67:III.2516)

The Department of Social Services, Office of Family Support has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Pursuant to R.S. 36:474(B)(4) and 46:236.1 et seq., Support Enforcement Services will take all necessary steps to recover support payments that are distributed in error to individuals to whom the department is providing services.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter D. Collection and Distribution of Support Payments

§2516. Recovery of Erroneous Child Support Payments

Upon notification that an erroneous payment has been made, the individual will be allowed 30 days to arrange for repayment prior to SES initiating action to withhold up to 10 percent of future support payments collected to recover the loss.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.32, 302.33, 302.51 and 302.70.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:1327 (October 1997).

Madlyn B. Bagneris
Secretary

9710#094

RULE

**Department of Wildlife and Fisheries
Office of Fisheries**

Freshwater Mussel Harvest (LAC 76:VII.161)

The secretary of the Department of Wildlife and Fisheries does hereby amend a rule to establish freshwater mussel harvest regulations.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§161. Freshwater Mussel Harvest

* * *

D. Species for Harvest

1. Only the following taxa may be legally harvested:

washboard	<i>Megaloniaias nervosa</i>
pimpleback	<i>Quadrula spp.</i>
three ridge	<i>Amblema plicata</i>
bleufer	<i>Potamilus (Proptera) purpuratus</i>
Asian clam	<i>Corbicula fluminea</i>

2. Only specimens equal to or larger than the following minimum sizes shall be harvested:

washboard	4 inches
three ridge and bleufer	3 inches
pimpleback	2¾ inches
Asian clam	no size limit

3. Minimum size will be measured by passing the specimen through a ring or appropriate circular measuring device so designed as to allow undersized mussels to pass through the opening. There is no allowance for undersized shell. All mussels must be sized (graded) immediately after each dive and undersized shell returned to the mussel bed before the harvester moves his boat or begins another dive. All mussels harvested shall be removed from the water daily during daylight hours only. All mussels harvested must be sold on a daily basis unless stored and tagged as required herein. Mussels may not be stored in the water after sunset. All mussels not sold at the end of each day shall be sacked and tagged before official sunset. The tag shall contain the following information:

- a. name;
- b. harvester permit number;
- c. date harvested;
- d. harvest location;
- e. confirmation number.

4. The mussel harvester may store mussels harvested at the end of each day in a cold storage facility prior to selling, provided the sacked mussels are properly tagged. Mussels shall not be stored longer than five days or after official sunset on Friday of each week.

5. The zebra mussel (*Dreissena polymorpha*), an introduced nuisance aquatic species, has the potential to severely clog industrial and public water intakes, deplete nutrients and consume huge amounts of dissolved oxygen in state water bodies and potentially decimate endemic freshwater mussel populations. Therefore, the Department of Wildlife and Fisheries strongly encourages actions to prevent the spread of zebra mussels.

* * *

G. Reporting

* * *

5. Each permittee harvesting mussels for sale is responsible for department notification. The permittee shall notify the department at a designated telephone number (1-800-442-2511) at least four hours prior to harvesting any mussels. The permittee shall provide, at the time of notification, the parish and area to be fished. Such notification will be on a daily basis, unless the harvester fishes in the same area during a Monday through Friday period. However, even if harvesting in the same location for an extended period, weekly notification will be required. The permittee will be given a confirmation number at the time of initial notification.

* * *

H. Special Restrictions

* * *

5. Mussel shells (opened without meat) may be imported into Louisiana by properly licensed and permitted mussel buyers when accompanied by the appropriate licenses or permits, bills of lading, and proof of legality in the state of origin. The bill of lading shall include species of mussels contained in the shipment, pounds of mussels by species, the

origin of the shipment, the destination of the shipment and the consignee and consignor. The buyer importing mussel shells into Louisiana must notify the Enforcement Division (toll-free 1-800-442-2511) within 24 hours prior to shipment with bill of lading information, date and time of shipment, and route to be taken to the point of destination.

6. All mussels possessed under the provisions of §161.H.5 must be of legal size and species open to harvest in Louisiana.

7. Except under the provisions of §161.H.5 and 6, no mussels harvested from waters outside of Louisiana may be sold in Louisiana.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:450.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 19:510 (April 1993), amended LR 21:193 (February 1995), LR 22:374 (May 1996), LR 23:1327 (October 1997).

James H. Jenkins, Jr.
Secretary

9710#048

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Advisory Commission on Pesticides

Commercial Applicators; Pesticide Application,
Equipment and Salesperson; Agricultural Consultant;
Fees; Rinsate System; and Closed Containment System
(LAC 7:XXIII.Chapter 1)

(Editor's Note: All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months so that each Part (I through XLIII) will begin with Chapter 1 and continue with sequential chapters as needed. A revised Louisiana Administrative Code, Title 7, is scheduled for publication during Fall, 1997. The Louisiana Register is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides gives notice of its intent to amend rules and regulations regarding certification of commercial applicators, pesticide salespersons, agricultural consultants, restrictions on applications of certain pesticides, rinsate systems, and closed containment systems. These amendments correct technical and typographical errors and clarify language and other housekeeping matters regarding the above-mentioned rules and regulations. These rules comply with and are enabled by R.S. 3:3203, R.S. 3:3242, R.S. 3:3246, and R.S. 3:3271.

No preamble regarding these rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

Subchapter F. Certification

§125. Certification of Commercial Applicators

A. The commissioner hereby establishes the following standards as qualifications required for certification:

1.a. - f. ...

2. An individual applying for certification in Category 7c (see §125.B.2) must have two years of experience in the phase of work in which he is making application. Required experience must be substantiated by a notarized statement acceptable to the commissioner.

3. An individual applying for certification in Category 8d (see §125.B.2) must have either:

a. a bachelor's degree with at least 12 hours in entomology; or

b. at least four years of experience in mosquito control working under supervision of a person certified in Category 8d. Required experience must be substantiated by a notarized statement acceptable to the commissioner.

A.4. - B.2. ...

(Note: The classifications in this Subsection reflect national categories established by EPA.)

a. - d. ...

e. Aquatic Pest Control (Category 5). This category is subdivided into two subcategories:

i. Subcategory 5a includes commercial applicators using or supervising the use of any restricted use pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in Category 8 (§125.B.2.h);

ii. Subcategory 5b includes commercial applicators using, or supervising the use of, any restricted use pesticide containing Tributyltin (TBT) in paints to be applied to vessel hulls and other marine structures to inhibit the growth of aquatic organisms such as barnacles and algae.

f. ...

g. Industrial, Institutional, Structural, and Health Related Pest Control (Category 7). This category includes commercial applicators and nonfee commercial applicators using, or supervising the use of, pesticides with restricted uses in, on, or around food-handling establishments; human dwellings; institutions, such as schools and hospitals; industrial establishments, including warehouses and grain elevators; and any other structures and adjacent area public or private; and for the protection of stored, processed or manufactured products. This category has been subdivided into four subcategories:

i. Subcategory 7a is for pest control operators who are, or will be, certified and licensed by the Structural Pest Control Commission. The commissioner hereby delegates to the Structural Pest Control Commission the authority to examine and certify all persons in this subcategory. The commissioner hereby delegates to the Structural Pest Control Commission the authority to enforce all federal and state laws and regulations as they apply to persons certified under this subcategory;

ii. ...

iii. Subcategory 7c is for applicators who apply, or supervise the application of, restricted use pesticides on a nonfee basis in, on, or around commercial grain elevators and other grain handling establishments, feed mills, flour mills, food processing plants, and other places where processed or unprocessed foods are stored, as the owner or in the employ of the owner. This subcategory is divided into three separate areas of certification:

(a) general pest control;

(b) vertebrate control;

(c) stored grain pest control.

B.2.g.iv. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:298 (September 1995), amended by the Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:

§127. Certification of Pesticide Salespersons

A. Examinations for certification for pesticide salespersons will be given upon request of the applicant, in Baton Rouge, at the Office of Pesticides and Environmental Programs, and at any district office of the department. Each person who has been certified as a pesticide salesperson, and whose certification has not been revoked or suspended, may renew that certification by attending a recertification meeting as designated by the commissioner. The commissioner shall issue a certification card to each pesticide salesperson. This card shall expire on December 31 of each year. Each person wishing to renew a certification card shall do so by submitting an application form and the proper fee, as prescribed by the commissioner.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3244 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:298 (September 1995), amended by the Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:

§129. Certification of Agricultural Consultants

A. - D.2.c.ii. ...

iii. Forest Weed Control. Making recommendations for the control of weeds and grasses in forest lands.

iv. Right-of-Way and Industrial Weed Control. Making recommendations for the control of weeds and grasses in and around industrial and commercial sites.

d.i. - iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3246 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 11:943 (October 1985), amended by the Advisory Commission on Pesticides, LR 24:

Subchapter G. Fees

§131. Fees

A. Fees required under pesticide statutes and these regulations are as follows:

- 1. Annual Registration of Pesticides \$300

A.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3244 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:194 (March 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 24:

Subchapter I. Application of Pesticides

§143. Restrictions on Application of Certain Pesticides

A. - A.3. ...

B. The following pesticides may not be applied by commercial applicators during the times set forth in this rule in the areas listed in §143.C, D and E hereof.

Chemical Name	Common Name
1. 4-amino-3, 5,6-trichloro-picolinic acid	Picloram
2. Arsenic trioxide	---
3. 3-chlorophenoxy-alpha-propionamide	3-CPA
4. 4-chlorophenoxy acetic acid	4-CPA
5. 2,4-dichlorophenoxy acetic acid	2,4-D
6. 4-(2,4-dichlorophenoxy)butyric	2,4-DB
7. 2-methoxy-3, 6-dichlorobenzoic acid	Dicamba
8. 2-methyl-4-chlorophenoxyacetic acid	2, 4-MCPA
9. 4-(2 methyl-4-chlorophenoxy)butyric acid	---
10. 2-(2 methyl-4-chlorophenoxy)	2-MCPP
11. Arsenic acid	Arsenic
12. Sodium arsenite	---
13. 2-(2,4,5-trichlorophenoxy)ethyl 2,2 dichloropropionate	---
14. Tris (2,4-dichlorophenoxy ethyl) phosphite	---
15. A mixture of tri-, tetra-, and polychlorobenzoic acid	---

C. - F. ...

G. No commercial applicator may make application of the following pesticides when the wind speed is at 10 miles per hour or above:

1. 3'4'-Dichloropropionanilide	Propanil
2. 1:1-Dimethyl-4, 4'-Bipyridinium (cation) dichloride	Paraquat

H. - M.1. Servitude ...

2. Exemptions are hand held manual pump sprayers up to a maximum 3-gallon capacity.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 18:953 (September 1992), LR 19:735 (June 1993), LR 21:668 (July 1995), LR 24:

Subchapter K. Mechanically Powered Pesticide Application Equipment

§159. Commercial Applicators

The following systems or controls must be present and in good operating order, prior to the issuance of a decal:

- 1. - 2.c. ...

d. The distance between the outermost nozzles on the boom of a fixed-wing aircraft shall not be more than 75 percent of the wing span of the aircraft. The boom on the rotary-wing aircraft may not exceed the rotor diameter. The commissioner may waive these requirements for specific aircraft.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3243.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:198 (March 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:

Subchapter S. Unused Portions of Pesticides and/or Rinsate of Pesticides Classified as Hazardous Wastes

§181. Constructive Recycling

A. - C. ...

D. In less than 90 days after the final application for the season of a pesticide which, upon disposal, is classified as a hazardous waste, the applicator must remove the contents of each containment tank; triple-rinse the containment tank by procedures equivalent to triple-rinsing; and apply such tank contents and rinsate in accordance with label and labeling requirements governing the initial application of the pesticide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:398 (May 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:

Subchapter T. Closed Containment Systems

§183. Closed Containment Systems of Commercial Applicators

A. Commercial applicators electing to install closed containment systems for a pesticide which, upon disposal, is classified as a hazardous waste must have such systems completed and operational on or before December 31, 1984. Following the effective date of this rule, any commercial applicator who is certified or licensed after January 1, who elects to install a closed containment system for a pesticide which, upon disposal, is classified as a hazardous waste must have such system completed and operational before the issuance of the certification or license.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:398 (May 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:

Subchapter U. Surface Impoundments of Hazardous Wastes

§185. Surface Impoundments of Commercial Applicators: Management of Unused Portions of Pesticides and/or Rinsate of Pesticides

A. Unused portions of pesticides and/or rinsate resulting from the application of a pesticide which, upon disposal, is not classified as a hazardous waste should be handled by one of the following methods:

A.1. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:399 (May 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:

Subchapter V. Surface Impoundments by Commercial Applicators

§187. Schedule for Implementation

A. - C. ...

D. Whenever violative levels of pesticides which, upon disposal, are classified as hazardous waste are detected in any sample taken from a surface impoundment, whether the surface impoundment was in operation at the effective date of these regulations or installed after the effective date of these regulations, such surface impoundment may be immediately and permanently closed, and, if closed, all contents thereof shall be removed and disposed of at a permitted hazardous waste disposal facility. The financial responsibility of closing a surface impoundment belongs to the commercial applicator and/or property owner.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:399 (May 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:

Interested persons should submit written comments on the proposed rules through November 21, 1997, to Bobby Simoneaux at 5825 Florida Boulevard, Baton Rouge, LA 70806.

A public hearing will be held on Friday, November 21, 1997, at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at the hearing.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Commercial Applicators; Pesticide Application, Equipment and Salesperson; Agricultural Consultant; Fees; Rinsate System; and Closed Containment System

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No costs or savings are anticipated for any state or local governmental unit. The proposed amendments correct technical and typographical errors and clarify language and other housekeeping matters. The proposed amendments to regulations are in regards to certification of commercial applicators, pesticide salespersons, and agricultural consultants; and restrictions on applications of certain pesticides, rinsate systems, and closed containment systems.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections is anticipated for any governmental unit.

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

No costs are anticipated for any person or nongovernmental group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effects on competition or employment are anticipated from these regulations.

Richard Allen
Assistant Commissioner
9710#029

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of the Commissioner**

Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk, and Farm-Raised, White-Tailed Deer (LAC 7:XXI.1501-1523)

Editor's Note: All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner proposes to adopt regulations governing the alternative livestock—imported exotic deer and imported antelope, elk and farm-raised, white-tailed deer. These rules comply with and are enabled by R.S. 3:3101 et seq.

The full text of these proposed rules and regulations may be viewed in their entirety in the emergency rule section of this issue of the *Louisiana Register*.

All interested persons may submit written comments on the proposed rules through November 24, 1997, to Dr. Maxwell Lea, Jr., Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806. All interested persons will be afforded the opportunity to submit data, views, or arguments, in writing, to the address above. No preamble regarding these rules is available.

Bob Odom
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk, and Farm-Raised, White-Tailed Deer

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

It is anticipated that there would not be any implementation costs to state governmental units because additional paperwork and inspections of alternative livestock farms would be done

using existing Department of Agriculture and Forestry personnel. It is also anticipated that there will be no additional costs to local governmental units.

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

Under the proposed rule the Department of Agriculture and Forestry would establish requirements and fees for the permitting of commercial farms raising alternative livestock and farm-raised, white-tailed deer. The one-time game breeders permit fee of \$75 would decrease to \$50, and the yearly permit renewal fee of \$30 would increase to \$50. Estimating that 25 new farms would be permitted and 200 permits renewed, state revenues would increase from \$7,875 to \$11,250, or \$3,375 annually. Additionally, a \$50 harvesting permit fee would have to be paid by any individuals intending to harvest alternative livestock for purposes other than sending to an approved slaughter facility. Estimating 400 permits issued times \$50 would increase state revenues by \$20,000. Individuals who harvest these animals would have to pay a \$5 alternative livestock tag fee for each animal harvested. Estimating that 600 livestock would be harvested, state revenue would increase by \$3,000. The total increase in state revenue would be \$26,375.

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

Farmers of alternative livestock would be affected by this rule. The one-time fee for permitting a farm would decrease by \$25 under the Department of Agriculture and Forestry. The annual renewal fee would increase by \$20. Individuals owning farms who harvest alternative livestock for purposes other than selling to an approved slaughterhouse would have to pay a \$50 harvesting permit fee per farm and a \$5 alternative livestock tag fee per animal killed. This would cost this group a total of \$26,375.

All farm-raised, white-tailed deer would have to be permanently identified by an implanted electronic device (microchip). The cost to these owners would be approximately \$10 per animal. In addition to this method, owners of all other alternative livestock would have the option of tagging and tattooing their animals, which would cost less than \$5.

Owners of all these animals would be economically benefitted by permanent identification in cases of theft or insuring that the animals purchased are the ones listed on the bill of sale and health certificate.

Farms that allow on-site harvesting of alternative livestock would benefit economically by charging an average of \$3,425 per person. Estimating 40 persons per farm the first year would increase each farm's income by \$137,000. Additional income would be derived from conducting tours, allowing photographers to photograph the animals, and allowing the filming of movies.

Louisiana businesses would benefit economically by the visiting individuals using hotels, restaurants, shops, etc. Louisiana's economy would also be benefitted by individuals buying and selling an increased number of alternative livestock in the state and selling to out-of-state buyers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that there will be 10 of the 25 new farms the first year that would hire three to five additional people, creating 30 to 45 new jobs in the state. This number would increase as more farms become licensed.

Skip Rhorer
Assistant Commissioner
9710#120

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Board of Architectural Examiners

Continuing Education (LAC 46:I.1117)

Under the authority of R.S. 37:144(C), and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated to amend LAC 46:I.1117 pertaining to continuing education and accreditation therefor. The board proposes to make continuing architectural education mandatory for all architects practicing architecture under the exemption provided for in R.S. 37:155(A)(2). Beginning with license renewals effective January 1, 1999, all architects practicing architecture pursuant to the exemption must show compliance with the educational requirements of these rules.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 11. Administration

§1117. Continuing Education

A. Purpose and Scope. These rules provide for a continuing education program to insure that all architects remain informed of those technical and professional subjects necessary to safeguard life, health, and promote the public welfare. These rules shall apply to all architects practicing architecture in this state.

B. Exemptions. Exempt from participating in the continuing education program required by these rules are:

1. a newly registered architect during his or her initial year of registration;
2. an *emeritus status architect* as defined in §905.E;
3. a civilian who serves on active duty in the armed forces of the United States for a period of time exceeding 90 consecutive days during the annual report period; and
4. an architect who demonstrates, to the satisfaction of the board, that meeting these requirements would work an undue hardship by reason of disability, sickness, or other clearly mitigating circumstances.

C. Definitions

AIA—the American Institute of Architects.

AIA/CES—the continuing education system developed by AIA to record professional learning as a mandatory requirement for membership in the AIA.

ARE—the Architect Registration Examination prepared by the National Council of Architectural Registration Boards.

Board—the Louisiana State Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, Louisiana 70809, Telephone: (504) 925-4802, Telecopier: (504) 925-4804, web site: <http://www.lastbdarchs.com>.

CEH—a continuing education hour. One CEH is equivalent to 50 minutes of actual contact time.

HSW—the health, safety, and welfare of the public.

NCARB—the National Council of Architectural Registration Boards.

Nonresident Architect—an architect registered by the board and residing outside Louisiana.

Resident Architect—an architect residing in this state.

Roster—the Annual Roster of Louisiana Registered Architects issued by the board.

Sponsor—an individual, organization, association, institution, or other entity which offers an educational activity for the purpose of fulfilling the continuing education requirements of these rules.

D. Requirements

1. Beginning with license renewals effective January 1, 1999, all architects must show compliance with the educational requirements of these rules as a condition for renewing registration.

2. Resident architects shall complete a minimum of 12 Continuing Education Hours (CEHs) in HSW each calendar year, beginning with 1998. The requirement must be satisfied during the period which begins January 1 and ends December 31 of the calendar year immediately preceding the license renewal year.

3. Nonresident architects shall complete either:

a. the mandated or voluntary requirements for continuing education of a jurisdiction in which that architect is registered to practice architecture, provided that other jurisdiction accepts satisfaction of Louisiana continuing education requirements as meeting its own; or

b. the requirements set forth herein for resident architects.

4. To satisfy the continuing education requirements for the year 1998 only, an architect may use hours obtained during calendar years 1997 and 1998.

5. If an architect is being re-registered after having been unregistered then, in addition to all other requirements, the architect must have acquired that number of total CEHs that would have been required if registration had been regularly renewed.

E. Acceptable Educational Activities

1. Credit will be allowed only for continuing education activities in areas which:

a. directly safeguard the public's health, safety, and welfare; and

b. provide individual participant documentation from a person other than the participant for recordkeeping and reporting.

2. Only subject matters on the ARE, current at the time of the activity, are acceptable. The board shall publish an official list of approved topics to accomplish the purpose of these rules. The board's current list shall be published in the roster and is also available upon written request from the board.

3. Acceptable continuing educational activities in HSW include the following:

a. attending professional or technical seminars, lectures, presentations, courses, or workshops offered by a professional or technical organization (AIA, National Fire Protection Association, Concrete Standards Institute, NCARB, etc.);

- b. successfully completing tutorials, short courses, correspondence courses, televised courses, or videotaped courses;
- c. successfully completing monographs or other self-study courses such as those sponsored by NCARB or a similar organization which tests the architect's performance;
- d. making professional or technical presentations at meetings, conventions, or conferences;
- e. teaching or instructing;
- f. authoring a published paper, article, or book; and
- g. successfully completing college or university sponsored courses.

4. Continuing educational activities need not take place in Louisiana, but may be acquired at any location.

5. All continuing education activities shall:
- a. have a clear purpose and objective;
 - b. be well organized and provide evidence of preplanning;
 - c. be presented by persons who are well qualified, by education or experience, in the field being taught; and
 - d. provide individual participant documentation from a person other than the participant for recordkeeping and reporting.

F. Number of Continuing Education Hours Earned

1. Continuing education credits shall be measured in CEHs and shall be computed as follows:

- a. attending seminars, lectures, presentations, workshops, or courses shall constitute one CEH for each contact hour of attendance;
- b. successfully completing tutorials, short courses, correspondence courses, televised or videotaped courses, monographs and other self-study courses shall constitute the CEH recommended by the program sponsor;
- c. teaching or instructing a qualified seminar, lecture, presentation, or workshop shall constitute two CEHs for each contact hour spent in the actual presentation. Teaching credit shall be valid for teaching a seminar or course in its initial presentation only. Teaching credit shall not apply to full-time faculty at a college, university, or other educational institution;
- d. authoring a published paper, article, or book shall be equivalent of eight CEHs;
- e. successfully completing one or more college or university semester- or quarter-hours shall satisfy the continuing education hours for the year in which the course was completed.

2. Any program in HSW contained in the record of an approved professional registry will be accepted by the board as fulfilling the continuing education requirements of these rules. The board approves the AIA as a professional registry, and contact hours listed in HSW in the AIA/CES Transcript of Continuing Education Activities will be accepted by the board for both resident and nonresident architects.

3. No carry over of CEHs from prior years is permitted.

G. Reporting, Recordkeeping, and Auditing

1. Each architect shall complete the language on the renewal application pertaining to that architect's continuing education activities during the calendar year immediately preceding the license renewal period. Any untrue or false

statement, or the use thereof with respect to course attendance or any other aspect of continuing educational activity, is fraud or misrepresentation and will subject the architect and/or program sponsor to license revocation or other disciplinary action.

2. To verify attendance each attendee shall obtain an attendance certificate from the program sponsor. Additional evidence may include, but is not limited to, attendance receipts, canceled checks, and sponsor's list of attendees (signed by a responsible person in charge of the activity). A log showing the activity claimed, sponsoring organization, location, duration, etc., should be supported by other evidence. Evidence of compliance shall be retained by the architect for two years after the end of the period for which renewal was requested.

3. The board will annually select a number of renewal applications randomly for audit for verification of compliance with these requirements. Upon request by the board, evidence of compliance shall be submitted to substantiate compliance of the requirements of these rules. The board has final authority with respect to accepting or rejecting continuing education activities for credit.

4. The board may disallow claimed credit. If so, unless the board finds that the architect willfully disregarded these requirements, the architect shall have six months after notification of disallowance to substantiate the original claim or earn other CEH which fulfill the minimum requirements (and such CEH shall not again be used for the next renewal).

H. Pre-Approval of Programs

1. Upon written request, the board will review a continuing education program prior to its presentation, provided all of the necessary information to do so is submitted in accordance with these rules. If the program satisfies the requirements of these rules, the board will pre-approve same.

2. A person seeking to obtain pre-approval of a continuing education program shall submit the following information:

- a. program sponsor(s)—name(s), address(es), and phone number(s);
- b. program description—name, detailed description, length of instructional periods, and total hours for which credit is sought;
- c. approved seminar topic—division(s) and topic(s) from the current list of approved seminar topics;
- d. program instructor(s)/leader(s)—name(s) of instructor(s)/leader(s) and credential(s);
- e. time and place—date and location of program; and
- f. certification of attendance: sponsor's method for providing evidence of attendance to attendees.

3. Such information shall be submitted at least 30 calendar days in advance of the program so that the board may analyze and respond.

4. The sponsor of a pre-approved program may announce or indicate as follows:

"This course has been approved by the Louisiana State Board of Architectural Examiners for a maximum of _____ CEH."

I. Noncompliance

1. Failure to fulfill the continuing education requirements shall result in nonrenewal of that architect's

certificate of registration and loss of the right to practice architecture.

2. If the board finds that the architect willfully disregarded these requirements, the board may subject the architect to all of the disciplinary actions allowed by law, including license revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-145.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 17:6 (June 1991), amended LR 18:3 (March 1992), LR 24:

Interested persons may submit written comments on this proposed rule to Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Continuing Education**

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

The proposed rule amendment will impose additional costs on the board, consisting primarily of additional forms, supplies, postage, and other miscellaneous charges. The board estimates that during the first year of implementation the total additional costs will approximate \$3,500, and that during subsequent years the total additional costs will approximate \$2,700 per year.

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

The proposed rule amendment will have no effect on the revenue collections of state or local governmental units.

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

There are no estimated costs or economic benefits to directly affected persons or nongovernmental groups, except some program sponsors may charge architects fees for educational programs. Any such fees will certainly vary, but it is anticipated that the fees for the programs may approximate \$150 - \$200 per architect per year. It is further anticipated that approximately 3,000 architects will participate in the mandatory program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment associated with this proposed rule, since it is anticipated that all architects will comply with the mandatory requirements for continuing education set forth in the proposed rule amendment.

Mary "Teeny" Simmons
Executive Director
9710#064

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Blanks and Envelopes (LAC 35:XI.9937)

The Racing Commission hereby gives notice that it intends to amend LAC 35:XI.9937, "Blanks and Envelopes," to clarify its intent and to prevent future discrepancies and voided claims due to the spelling of horses' names.

**Title 35
HORSE RACING**

Part XI. Claiming Rules and Engagements

Chapter 99. Claiming Rule

§9937. Blanks and Envelopes

All claims shall be on blanks and in envelopes furnished by the association and approved by the commission. Both blanks and envelopes must be filled out completely, and the horse's name must be spelled accurately to identify the claim, otherwise the claim shall be void. The horse's name shall be spelled as it appears in the official racing program of the association, otherwise the claim shall be void.

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

HISTORICAL NOTE: Adopted by the Racing Commission, 1971, amended by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), repromulgated LR 3:42 (January 1977), LR 4:286 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 24:

The domicile office of the Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact Paul D. Burgess, Executive Director; C. A. Rieger, Assistant Director; or Tom Trenchard, Administrative Manager, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through November 8, 1997, to 320 North Carrollton Avenue, Suite 2B, New Orleans, LA 70119-5100.

Paul D. Burgess
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Blanks and Envelopes**

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

There are no costs to implement this action.

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

There is no effect on revenue collections.

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

This action will benefit horsemen by allowing more discretion in horses' names on claim forms and racing programs (i.e., capitalization will no longer matter).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
9710#039

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Extension of Contract (LAC 46:XLI.709)

The Racing Commission hereby gives notice that it intends to amend LAC 46:XLI.709, "Extension of Contract," to allow for education as an additional condition to grant an apprentice jockey's contract extension.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLI. Horseracing Occupations

**Chapter 7. Jockeys and Apprentice Jockeys
§709. Extension of Contract**

In the event an apprentice jockey is unable to ride for a period of 14 consecutive days or more because of service in the armed forces of the United States, or because of physical disablement, or because of restrictions on racing, or due to secondary or higher education with proper documentation, the commission, upon recommendation of the stewards and after consultation with the racing authority which first approved the original apprentice contract, may extend the time during which such apprentice weight allowances may be claimed for a period no longer than the period such apprentice rider was unable to ride.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:150.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended and promulgated by the Department of Commerce, Racing Commission, LR 2:431 (December 1976), amended LR 3:27 (January 1977), LR 4:276 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 23:

The domicile office of the Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact Paul D. Burgess, Executive Director; C. A. Rieger, Assistant Director; or Tom Trenchard, Administrative Manager, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule

through November 8, 1997, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Paul D. Burgess
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Extension of Contract**

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

There are no costs to implement this action.

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

There is no effect on revenue collections.

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

This action benefits apprentice jockeys by allowing them to extend their contract period as a result of secondary or higher education.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
9710#040

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Minors (LAC 35:I.315)

The Racing Commission hereby gives notice that it intends to amend LAC 35:I.315, "Minors," to allow minors as young as 6 years old to attend races (proof of age unnecessary).

Title 35

HORSE RACING

Part I. General Provisions

Chapter 3. General Rules

§315. Minors

Minors are prohibited from attending racing meetings except that any minor 6 years of age, or older, may attend any race meeting if accompanied by a parent, grandparent, or companion. In no case shall any minor in attendance be allowed to engage in wagering. (For the purpose of this rule, *companion* is defined as any person 21 years of age or older who is a relative of the minor.)

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 10:592 (August 1984), amended by the Department of Economic Development, Racing Commission, LR 23:

The domicile office of the Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact Paul D. Burgess, Executive Director; C. A. Rieger, Assistant

Director; or Tom Trenchard, Administrative Manager, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through November 8, 1997, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Paul D. Burgess
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Minors**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action will benefit patrons who desire to bring younger children to the tracks.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
9710#038

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Real Estate Commission**

Agency Disclosure (LAC 46:LXVII.3401-3411)

Under the authority of the Real Estate License Law, R.S. 37:1435, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., R.S. 37:1437, and R.S. 9:3891 et seq., Agency Relations in Real Estate Transactions, notice is hereby given that the Real Estate Commission has initiated rulemaking procedures to amend LAC 46:LXVII.Chapter 34. LAC 46:LXVII.3401 will be revised to reflect the statute under which agency relations in real estate transactions are now governed. LAC 46:LXVII.3403 and 3405 will be revised to establish guidelines for reproduction and distribution of the agency disclosure informational pamphlet and the dual agency disclosure form the usage of which was made mandatory by Act 32 (R.S. 37:1455.A.21 and R.S. 37:1467) of the 1997 Regular Session. LAC 46:LXVII.3407-3411 will be repealed.

The proposed amendments will become effective March 1, 1998, in accordance with Chapter 4 of Code XV of Title 9 of the Louisiana Revised Statutes of 1950, comprised of R.S. 9:3891-3899.

**TITLE 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LXVII. Real Estate
Subpart I. Real Estate**

Chapter 34. Agency Disclosure

**§3401. Agency Relationships in Real Estate
Transactions**

Effective March 1, 1998 agency relations in real estate transactions will be governed by Chapter 4 of Code XV of Title 9 of the Revised Statutes of 1950, comprised of R.S. 9:3891-3899.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:26 (January 1992), amended LR 19:1129 (September 1993), LR 23:

§3403. Agency Disclosure Informational Pamphlet

A. Licensees shall provide the agency disclosure informational pamphlet to all parties to a real estate transaction involving the sale or lease of real property.

B. The agency disclosure informational pamphlet shall be obtained from the commission in a form suitable for use by licensees in reproducing the pamphlet locally. Licensees are responsible for insuring that the pamphlets prepared and distributed are the most current version prescribed by the commission and contain the identical language prescribed by the commission.

C. Licensees will provide the agency disclosure informational pamphlet to prospective sellers/lessors and buyers/lessees at the time of the first face-to-face contact with the sellers/lessors or buyers/lessees when performing any real estate related activity involving the sale or lease of real property, other than a ministerial act as defined in R.S. 9:3891(12).

D. Licensees providing agency disclosure informational pamphlets to prospective sellers/lessors and buyers/lessees shall insure that the recipient of the pamphlet signs and dates the receipt included in the pamphlet. The licensee providing the pamphlet will affix his/her signature to the receipt as a witness to the signature of the recipient, and the licensee will retain the signed receipt for a period of five years.

E. In any circumstance in which a seller/lessor or a buyer/lessee refuses to sign the receipt included in the agency disclosure informational pamphlet, the licensee shall prepare written documentation to include the nature of the proposed real estate transaction, the time and date the pamphlet was provided to the seller/lessor or buyer/lessee, and the reasons given by the seller/lessor or buyer/lessee for not signing the receipt. This documentation will be retained by the licensee for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:26 (January 1992), amended LR 19:1129 (September 1993), LR 23:

§3405. Dual Agency Disclosure

A. The dual agency disclosure form will be used by licensees acting as a dual agent under R.S. 9:3897.

B. The dual agency disclosure form shall be obtained from the commission in a form suitable for use by licensees in reproducing the form locally. Licensees are responsible for insuring that the form is the most current version prescribed by the commission and that reproductions of the form contain the identical language prescribed by the commission.

C. Licensees shall insure that the dual agency disclosure form is signed by all clients at the time the brokerage agreement is entered into or at any time before the licensee acts as a dual agent; but in no event later than when a purchase agreement is entered into by the clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:26 (January 1992), amended LR 19:1129 (September 1993), LR 23:

§3407. Seller/Lessor Agency Disclosure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:26 (January 1992), amended LR 19:1129 (September 1993), repealed LR 23:

§3409. Buyer/Lessee Agency Disclosure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:26 (January 1992), amended LR 19:1129 (September 1993), repealed LR 23:

§3411. Dual Agent/Agency Disclosure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:26 (January 1992), amended LR 19:1129 (September 1993), repealed LR 23:

Interested parties are invited to submit written comments on the proposed regulations through November 20, 1997 at 4:30 p.m., to Stephanie Boudreaux, Real Estate Commission, Box 14785, Baton Rouge, LA 70898-4785 or to 9071 Interline Avenue, Baton Rouge, LA 70809.

Julius C. Willie
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Agency Disclosure

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

In accordance with Act 32 of the 1997 Regular Session, the LREC will develop an agency disclosure informational pamphlet and a dual agency disclosure form for mandatory use by real estate licensees in all real estate transactions. The proposed rules establish guidelines for real estate licensees in the reproduction and distribution of these forms. There are no estimated costs (savings) relative to the proposed rules. Any implementation costs for the development of the mandatory

forms will be the result of Act 32, more specifically R.S. 37:1467, which enacted this portion of the real estate agency disclosure program. It is anticipated that the implementation costs, which will be absorbed by the LREC, will be minimal.

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

There is no estimated effect on revenue collections of state or local governmental units.

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

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups as the result of the proposed rules. Act 32 of the 1997 Regular Session will require real estate licensees to provide the parties to a real estate transaction with an agency disclosure informational pamphlet, and where applicable, a dual agency disclosure form as mandated under R.S. 9:3895. Costs will be determined by the user(s). It is anticipated that real estate brokers will absorb the cost of reproduction and distribution of the forms for the real estate licensees under their sponsorship.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment; however, failure of real estate licensees to provide the parties to a real estate transaction with an agency disclosure informational pamphlet and, where applicable, a dual agency disclosure form, is cause for censure, suspension, or revocation of their license.

Julius C. Willie
Executive Director
9710#100

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Alternative Post-Baccalaureate Appeals Process (LAC 28:I.107)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement a revision to LAC 28:I.107. This revision will allow those persons who are enrolled in Alternate Post-Baccalaureate certification programs to participate in the appeals process.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 1. Organization

§107. Board Appeals Councils

A. Teacher Certification Appeals Council

1. - 2.b.iii ...

c. The appeals council, in the absence of mitigating circumstances, shall not be required to consider appeals of persons who:

i. are nondegreed; or

ii. lack the required NTE scores.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:

Interested persons may submit written comments until 4:30 p.m., December 10, 1997 to Jeannie Stokes, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Alternative Post-Baccalaureate
Appeals Process**

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

The adoption of this proposed rule will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$40. Funds are available.

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

The proposed rule will have no effect on revenue collection.

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

The proposed rule may provide increased employment opportunities for teachers who may become certified sooner since exceptions to the certification requirements are considered by the State Board of Elementary and Secondary Education in the appeal process.

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

The proposed rule may result in an earlier increase in the number of certified teachers available for employment, since exceptions to the certification requirements are considered by the State Board of Elementary and Secondary Education in the appeal process.

Marlyn Langley
Deputy Superintendent
Management and Finance
9710#080

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1706—Exceptional
Children's Act (LAC 28:I.909)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, Bulletin 1706, regulations for implementation of the Exceptional Children's Act. The proposed rule changes clarify existing state regulations and make them more consistent with the federal regulations. Bulletin 1706 is

referenced in LAC 28:I.909.E and was previously published in full as an emergency rule in the June 1997 issue of the *Louisiana Register*.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§909. Special Education Regulations**

A. - E.1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941-1958.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 4:337 (September 1978), amended LR 7:407, 484, 625 (August, October, December 1981), LR 8:63, 323 (February and July 1982), LR 9:130, 549, 835, 836 (March, August, December 1983), LR 10:7 (January 1984), LR 11:252 (March 1985), LR 12:763 (November 1986), LR 14:11, 609 (January, September 1988), LR 16:297 (April 1990), repromulgated LR 23:

**BULLETIN 1706—IMPLEMENTATION OF
THE EXCEPTIONAL CHILDREN'S ACT
(R.S. 17:1941 et seq.)**

(Editor's Note: The amended Bulletin 1706 published below does not use the *Louisiana Administrative Code* codification/format.)

§106. Opportunity of Hearing

The state board shall provide an opportunity for a hearing according to procedures set out in Education Division General Administrative Regulations (EDGAR) at 45 CFR 100.b.401.d before the department disapproves any school system application for federal entitlement funds for special education under IDEA-Part B.

§130. State Advisory Council

A. The advisory council shall be appointed by the department with the approval of the State Board of Elementary and Secondary Education. Each board member shall recommend to the superintendent, one name to serve on the advisory board from one of the membership categories to be chosen on the basis of lots drawn by board members as vacancies occur. Procedures shall follow existing state board procedures for appointing such councils.

B. Membership of the council will be composed of persons involved in or concerned with the education of children with disabilities and will include at least one person representing each of the following categories except for category six which shall have two representatives:

1. - 7. ...
8. representatives of advocate agencies for the disabled;
9. colleges and universities; and
10. vocational-technical schools.

C. The advisory council shall perform the following:

1. Advise the state board and the department of unmet needs in the education of exceptional students, including needs identified through study and analysis of the findings and decisions of the hearings.

2. Review and comment publicly on the state Special Education State Plan annual program plan and rules or regulations proposed for issuance by the state regarding the education of exceptional students and the procedures for distribution of funds under IDEA-Part B.

3. ...

4. Consider items referred by the state board as well as items initiated by the council and approved by the board through its regular procedures.

5. Make recommendations regarding the disbursal of certain special education discretionary funds.

§271. Out-of-District Placement

The department shall approve or disapprove each request made by a school system to place an exceptional student outside the geographic boundaries of that school system unless the placement is in another school system by mutual agreement.

§303. Approval of Out-of-District Placement

The office shall approve or disapprove each request made by a school system to place an exceptional student outside the geographic boundaries of that school system unless the placement is in another school system by mutual agreement.

§340. Review and Approval of Annual Applications of School Systems

A. - B. ...

C. The OSES shall establish a submission cycle for application of federal and/or state funds. At a minimum the annual application must meet submission requirements established in §488.B.

§402. Definitions

A. - B.3. ...

Comment: ...

1. - 2. ...

C. Eligible Students

1. Free appropriate public education must be available to all exceptional students reaching the age of 3 years, regardless of when the birthday occurs during the school year. At the discretion of the LEA and with parental approval, FAPE may be provided to an eligible student before age 3 years if his or her third birthday occurs during the school year.

2. ...

§412. Responsibilities of Child Search Coordinator

Each school system shall designate an individual/child search coordinator who shall be responsible for:

1. ensuring that the progress of referrals and evaluation activities required by §§411, 413-414, and 430-436 for each student suspected of being exceptional is tracked;

2. - 3. ...

§413. Students in a Regular Education Program

A. - C. ...

D. Pre-evaluation activities as listed in Bulletin 1508 under "Initial Responsibilities" of the evaluation coordinator must be conducted within 10 operational days after receipt of the referral by the pupil appraisal office for an individual evaluation.

§415. Students Out of School and/or Former Special Education Students

Students out of school, including students ages birth through 5 years who are suspected of having a disability and former special education students who have left a public school without completing their public education by obtaining a state diploma or certificate of achievement shall be referred to the school system's child search coordinator, who shall locate and offer enrollment in the appropriate public school program and refer them for an individual evaluation, if

needed. Students may be enrolled with the development of an interim IEP based on their individual need, following the enrollment process in §416 below. If the Louisiana evaluation is current, students may be enrolled with the development of a review IEP within five operational days.

§416. Students with a Documented Severe or Low-Incidence Impairment; Students from Out-of-State; or Infants and Toddlers with Disabilities.

A. Students with a Documented Severe or Low-Incidence Impairment. Students who have a severe or low-incidence impairment, documented by a qualified professional, shall be initially enrolled in a special education program concurrent with the conduct of the evaluation according to the requirements of Bulletin 1508. This enrollment process, from the initial entry into the school system to placement, shall occur within 10 operational days and will include the following steps:

1. a review of all available evaluation information by pupil appraisal personnel;

2. approval by the school system's special education administrator;

3. the development of an interim IEP in accordance with §§440-445;

4. formal parental approval for the temporary placement.

The duration of the completion of the evaluation and the interim placement shall not exceed the evaluation time lines specified in §436, with the initial IEP/placement document developed within 30 calendar days from the date of dissemination of the written evaluation report to the school system's special education administrator.

B. Students Transferring from Out-of-State. Students who have been receiving special education services in another state may be initially enrolled in a special education program, on an interim IEP, concurrent with the conduct of the evaluation according to the requirements of Bulletin 1508. The enrollment process is the same as in §416.A.

Comment: If no mutually agreeable placement can be determined the district is not obligated to adopt the former IEP, or provide the former services, and placement should be in regular education pending the resolution of the placement dispute in accordance with the "stay-put" provisions in 34 CFR300.513(b).

C. Infants and Toddlers with Disabilities. Any infant or toddler moving to Louisiana who has an Individualized Family Service Plan (IFSP) will be referred to the local school system that is responsible for assisting the family in identifying and accessing family service coordination. During the conduct of the evaluation, which shall include a review of the existing evaluation, an interim IFSP may be developed to prevent a disruption in services. The enrollment process shall occur within 10 operational days from receipt of referral.

§418. Formal Parental Approval

A. ...

Comment: For specific evaluation procedures and protection of parental rights refer to Bulletin 1508 (Pupil Appraisal Handbook) and Part 500 of this Bulletin.

B. ...

§433. Evaluation Coordination

A. ...

B.1. - 4. ...

5. opportunity for oral explanation of educational rights and evaluation procedures.

§434. Evaluation Process

A. - C.1. ...

2. Tests and other evaluation procedures and materials shall be administered by trained personnel in conformance with the instructions provided by their producer and are as follows:

a. tailored to assess specific areas of developmental/educational need;

b. - g. ...

§440. Initial IEP/Placement Responsibilities

A. - E. ...

F. The IEP shall be developed using a format approved by the department.

G. - H. ...

§441. IEP Meeting Participants

* * *

A. ...

B. the student's teacher

Comment: When a regular education teacher calls for a reconvening of the individualized education program committee for any exceptional child assigned to his/her classroom on a full-time basis in which the IEP requires an adjustment in the curriculum, instruction, or services to be provided by the regular education teacher, this teacher shall participate on the IEP committee and will participate continuously thereafter for as long as the child is assigned to his/her classroom.

C. - G. ...

Comment: ...

1. a. - c. ...

2. ...

§443. Parental Approval of IEP/Placement

(Editor's Note: Wording in the section heading is amended.)

A. - E. ...

§445. Least Restrictive Environment

A. For each educational placement, the school system shall ensure that:

1. it is determined at least annually by a group of persons (including persons knowledgeable about the student and the placement alternatives) who consider carefully broad-based, documented information about the student;

2. it is based on an IEP/placement document;

3. the special education program in which each educational placement is made, including day or residential nonpublic schools, meets the standards of the state board;

4. a continuum of alternative educational settings shall be available to the extent necessary to implement the IEP/placement document for each student with disabilities. At a minimum, this continuum shall include (in order of restrictiveness as it applies to each student):

a. instruction in regular classes, including:

(1). supplemental aides and services to the student,

and/or

(2). special education instruction;

b. instruction in special classes, all or part of the day;

c. special school, all or part of the day;

d. homebound;

e. instruction in hospitals and institutions;

Comment: Instruction may take place in other settings such as the community and job sites.

5. special class, separate schooling, or other removal of exceptional students from the regular educational environment

occurs only when the nature or intensity of individual's needs are such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily;

Comment: Reasons for selecting a more restrictive environment may not be based solely on category of disability, severity of disability, availability of educational or related service, administrative convenience or special equipment.

6. exceptional students are educated with students who are not exceptional including students in public and private institutions or other care facilities served with IDEA funds, to the maximum extent appropriate. In making this decision, the following four areas must be considered:

a. physical integration—the student will share the same facilities with nondisabled students;

b. social integration—the student will participate in co-curricular and extra-curricular activities with nondisabled students;

c. academic integration—the student will participate in regular classroom activities; and

d. community integration—the student will participate in activities out in the community;

7. to the maximum extent appropriate any alternative placement selected for the student outside the general educational setting must provide opportunities for the student to interact with nondisabled peers;

8. nonacademic and extracurricular services and activities (may include counseling, recreational athletics, intramural and interscholastic athletic, transportation, health services, special interest groups or clubs sponsored by the school system, referrals to agencies that provide assistance to individuals with disabilities, and employment of students by the school system and assistance in making outside employment available) must be offered in a way that allows equal opportunity for each exceptional student to participate in services and activities;

Comment: In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods and the services and activities listed above, each school system must ensure each student with a disability participates with nondisabled students in those services and activities to the maximum extent appropriate to the needs of the student.

9. physical education services, in accordance with the IEP/placement document, must be provided to students with disabilities in the regular physical education program or the adapted physical education program as specified in §904;

10. the least restrictive environment rules may not be waived by any party, including the parent(s).

B. If there is evidence that a school system or any participating agency makes placements that are not consistent with these regulations, the office shall:

1. review the school system's or participating agency's justification for its action; and

2. assist in developing and implementing the required corrective action.

C. Each completed IEP shall contain the following placement components:

1. an identification of the specific educational environment in which the student is to be placed. This placement must be the least restrictive educational environment, whether in existence or not, which can meet the

student's individual educational needs, including necessary resources;

2. in making placement decisions, IEP committees must first consider the regular/general education class with the use of supplemental aids and services:

a. if a regular/general education class is not chosen as the least restrictive environment, IEP committees must examine each alternative setting (in order of restrictiveness) to determine appropriate placement;

b. if placement decision is not instruction in regular class/setting, the following must be provided:

(1) a description which includes evidence of specific constraints that prohibit accomplishment of IEP goals and objectives in the regular classroom;

(2) a description of educational benefits of the alternative setting; and

(3) a justification as to why less restrictive settings were rejected;

3. the following noted assurances must be provided when site determination decisions are made:

a. the placement is in the school which the student would attend if not exceptional unless the IEP of the student required some other arrangement. If the placement is not in the school the student would normally attend, the placement is as close as possible to the student's home;

b. the school and the class are chronologically age appropriate for the student. No student shall be placed in a setting which violates the maximal pupil/teacher ratio or the 3-year chronological age span;

c. the school/setting selected is accessible to the student for all school activities;

d. if the placement is other than regular/general education, the classroom is comparable to and integrated with regular classes.

Comment: Any deviation from these assurances must be documented and justified on the IEP. In selecting an alternative setting, the school system shall consider any potential harmful effect on the exceptional student or on the quality of services needed.

D. Various alternative placements shall be available to the extent necessary to implement the IEP/IFSP for each child with disabilities birth through age 5. The frequency and intensity of services are flexible and dependent upon the needs of the individual child and family.

1. instruction in the home;

2. instruction in a center/school;

a. regular preschool placements-Head Start, Title 1, kindergarten, child care center, 4-Year Old at Risk Program, Even Start, infant/toddler class;

b. self-contained-noncategorical preschool class, categorical preschool class, infant/toddler class;

3. instruction in a clinic/hospital;

4. combination - any combination of 1, 2, 3 above;

5. other (describe).

Comment: Children who are 3 - 5 years of age or are eligible for Part B services according to the LEA's policy on age of eligibility and who are identified with speech impairments only are entitled to be served in any of the above preschool settings. The setting for a child with speech impairments only must be determined by the needs of the child; the child may need communication intervention in settings with other children to meet his or her needs.

The school system must make available center school-based settings comparable in time to that of kindergarten age children if the child with

a disability is kindergarten age. The pupil/teacher ratio established in Appendix I, Part B is used. The teacher providing the service must be certified in noncategorical preschool, early interventionist or in the area of exceptionality if the class is categorical. The frequency and intensity of services are flexible and dependent upon the needs of the individual child and family.

School systems that provide preschool programs for nondisabled preschool children must ensure that various alternative placements are available. School systems that do not operate programs for nondisabled preschool children are not required to initiate such programs solely to satisfy the requirements of LRE; however, for these school systems, some alternative methods for meeting the requirements of LRE include providing opportunities for the participation of preschool children with disabilities in other preschool programs operated by school systems, such as Head Start, placing children with disabilities in private school programs for nondisabled preschool children or private school preschool programs that integrate children with disabilities and nondisabled children, and locating classes for preschool children with disabilities in regular elementary schools. In each case, the school system must ensure that each child's placement is in the LRE in which the unique need of that child can be met, based on the child's IEP, and meets all IEP and LRE requirements.

Services to infants and toddlers with disabilities, to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate.

E. A continuum of alternative educational settings shall be available to the extent necessary to implement the IEP for each student who is gifted or talented. At a minimum, this continuum shall include (not in order of restrictiveness as it applies to each student):

1. regular classroom with supplemental aids/services;

2. resource with regular classroom;

3. self-contained; and

4. preschool.

F. The educational placement of deaf and (hard of hearing) students will be determined primarily by the provision of a free appropriate public education (FAPE) and the consideration of the least restrictive environment (LRE) will be of secondary consideration.

1. Full consideration of the unique needs of a deaf and hard of hearing student will ensure an appropriate education as required by the Individuals with Disabilities Education Act.

2. Factors that will be considered in developing an IEP for a deaf or hard of hearing student are:

a. communication needs are the student's and family's preferred mode of communication;

b. linguistic needs;

c. severity of hearing loss and potential for using residual hearing;

d. academic level;

e. social, emotional and cultural needs including opportunities for peer interaction and communication;

f. consideration of curriculum content and method of curriculum delivery.

G. A continuum of alternative educational settings shall be available to the extent necessary to the implementation of the IEP for each student who is deaf or hard of hearing. At a minimum, the continuum shall include (not in order of restrictiveness as it applies to each student):

1. homebound or hospital instruction;

2. special school, all or part of the day;

3. instruction in special classes, all or part of the day;

4. special education instruction in regular classes including:

a. service to or consultation with the regular classroom teacher; and/or

b. services to exceptional students within the regular classroom..

§446. Repealed/Reserved.

§448. Hospital/Homebound Placement Rules

A. ...

B. Consistent with the requirements of these regulations, the student has been determined to be emotionally/behavior disordered or has serious behavior problems and either:

1. a psychologist or psychiatrist who is licensed to practice in Louisiana has certified in a signed written report that the student is admitted to a full-time inpatient program of care and treatment in a hospital certified or licensed by the state of Louisiana and that continued participation in the inpatient program is necessary to the proper care and treatment of the student; or

2. a certified school psychologist or a board-certified social worker or a psychologist or psychiatrist who is licensed to practice in Louisiana has verified in a signed written report submitted to the school system that the student's current educational placement is not appropriate and that there is a need for the student to be placed at home where he will be provided an appropriate educational program. Upon the receipt of this report:

a. - f. ...

C. - E. ...

§449. IEP/Placement Meeting(s) for Exceptional Students in Other School Systems or in Participating Nonpublic Schools

A. ...

1. Apply to the department for approval of placement out of the geographic attendance area of the school system or for a transfer of jurisdiction in accordance with §451.B. unless the placement is in another school system by mutual agreement.

2. - 3. ...

B. ...

§450. Direct Service Rules

School systems must provide service directly or through mutual agreements with other school systems in the alternative setting needed by an exceptional student if:

1. - 2. ...

§452. IEP/Placement Review Procedures

A. - 1. ...

2. The student's teacher

Comment: When a regular education teacher calls for a reconvening of the individualized education plan committee for any exceptional child assigned to his/her classroom on a full-time basis in which the IEP requires an adjustment to the curriculum, instruction or service to be provided by the regular education teacher, this teacher shall participate on the IEP committee and will participate continuously thereafter for as long as the child is assigned to his/her classroom.

3. - 4. ...

Comment: ...

5. Other individuals at the discretion of the parent(s) or school system as per §504.C.3.b.

6. ...

B. One IEP/placement review meeting must be conducted annually. More than one IEP/placement review meeting may be conducted at the discretion of the school system. If a parent makes a written request for an IEP/placement review meeting, the school system must respond in 10 calendar days in writing to that request and should reconvene the IEP committee if the request is reasonable. Other IEP/placement review meetings that must be conducted in addition to the required annual meetings are listed in Bulletin 1530.

C. - E. ...

§453. Change to Less Restrictive Environment

A. ...

B. Significant change in educational placement is defined as moving a student from one alternative setting to another which is more restrictive or which transfers jurisdiction: such a change requires a re-evaluation. A re-evaluation is not required to precede a placement change to a less restrictive environment occurring as a result of an IEP/placement document.

§459. Discipline Procedures

A. - B.5.a. ...

b. If a student brings a firearm (with an ability to fire a projectile) to school, the LEA may place the student in an interim alternative setting, in accordance with state law, for up to 45 calendar days. This can be done before determining whether the behavior was a manifestation of the student's disability. However, the student's placement cannot be changed until the student's IEP team has been convened and determined the interim alternative placement to be appropriate. If a re-evaluation for a more restrictive placement is required, it must be conducted prior to or during the interim alternative placement. If the parent initiates a due process hearing, the student must remain in the alternative setting during the authorized review proceedings, unless the parent and the school system can agree on another placement.

Note: At each IEP meeting there must be a discussion of the social/behavioral needs of the student. This should include the following:

1. addressing any behavioral problem(s) of the student that are related to the disabling condition;

2. developing a structured program of behavior management (including goals and objectives) for dealing with the behavior; and

3. a review and determination of the effectiveness of any prior plan of behavior management.

§473. Functions

A. - D. ...

E. Repealed.

§488. Preparation of Application

A. In the preparation of an application required under IDEA-Part B, the first year of the submission cycle in accordance with §340.C the school system must complete the following:

1. - 10. ...

11. The school system shall provide a list of the organizations to which a distribution of the application is made upon submission of the application to the Office of Special Educational Services.

B. In preparation of the annual application in subsequent years the school system shall submit to the SDE the following assurances:

1. that 30 days prior to its submission the school system held at least one public hearing to provide opportunities for comments on the plan by the general public and;

2. adequate notice of the hearing was given stating the purpose, date, time, location, and provisions for receipt of written comments on the application

§491. Child Counting

A. Each school system shall use LANSER for the purpose of tracking students with disabilities. Data from this system shall be used to produce the annual child count, as of December 1, for the purpose of generating grant awards under IDEA-B and the Preschool Grants Program.

B. Each school system/state agency must determine the eligibility of each student for inclusion in the December 1 child count, which will generate funds under IDEA. It is the responsibility of the school system/state agency to verify that each eligible student is receiving the special education and related services stated on the Individualized Education Program or early intervention services, as stated on the Individualized Family Service Plan. Eligibility requirements for IDEA- Part B and H must be determined as specified in the SDE Monitoring Procedures, Bulletin 1922.

§492. Dissemination of Student and Parent Rights

* * *

Comment: Refer to §504.C.

§494. Repealed/Reserved.

§496. Responsibilities for Placed Students

City/parish school systems shall enroll exceptional students currently enrolled in SSD Number 1 or state board special schools for provision of special education and related services in the least restrictive environment when the student is placed by SSD Number 1 or state board special schools. Such an exceptional student remains in the jurisdiction of SSD Number 1 or the state board special schools, which shall reimburse the city/parish school system for any costs for providing such services based on an interagency agreement. A city/parish system or SSD Number 1 which places students with severe or low-incidence disabilities in state board special schools must reimburse state board special schools for any costs for providing such services based on an interagency agreement. The school system which retains jurisdiction retains fiscal responsibility for funds not available to the other system from the state. A city/parish school system that disagrees with such a placement may, on an individual basis, apply to the state board for exemption from the state board from this obligation.

§503. Independent Educational Evaluation

* * *

Public Expense—the school system either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

Comment: To avoid unreasonable charges for Independent Educational Evaluations (IEEs) a school system may establish maximum allowable charges for specific tests. The maximum must be established so that it allows parents to choose among the qualified professionals in the area and only eliminates unreasonably excessive fees. The district must allow parents the opportunity to demonstrate unique circumstances to justify an IEE that falls outside the district's criteria.

A. - D.2. ...

§508. Hearing Officer Appointment and Hearing Procedures

A. ...

B. Hearing Procedures

1. Hearing Officer Designation

a. The local supervisor must notify the SDE of the need to assign a hearing officer within one day of receipt of a request for a hearing. The hearing officer will be assigned within two calendar days by the SDE on a rational basis from the State Department of Education's approved list. Consideration will be given to the location of the hearing when making the assignment.

b. After a hearing officer has been assigned by the SDE, the local supervisor must, within five calendar days, give the parent(s) written notice of the name of the proposed hearing officer.

c. The parent and the school system, upon receiving notice of the assigned hearing officer, may disqualify (available only once) the person assigned. The parent must notify the parish supervisor of such a decision within three calendar days after receiving notice. The school system must notify the SDE of their decision of the parents' decision to disqualify the hearing officer within three calendar days after receiving notice.

d. If the parent or school system has reasonable doubt regarding the impartiality of a hearing officer, they must submit written information to the SDE within three calendar days of receipt of the notice of the assigned hearing officer. The SDE shall review any written challenge and:

(1) provide a written decision and notice to the parent and parish supervisor within five calendar days after receipt of the written challenge.

(2) ...

e. ...

2. Conduct of Hearing

a. - b. ...

c. The final hearing decision must be reached and a copy of the decision mailed to each party and the department not later than 45 calendar days after the receipt of the request for the hearing.

d. A hearing officer may grant specific extensions of time beyond the prescribed time requirements at the request of either party. When an extension is granted, the hearing officer shall reach a decision and mail copies to the parties and the department not later than 10 calendar days from the termination of the hearing.

e. - f. ...

§509. Review of Hearing Decision

A. ...

B. A written request to review the hearing decisions must be sent by certified mail to the SDE within 15 calendar days of receipt of the hearing decision. The request must state the basis upon which the review is requested.

C. ...

§511. Conduct of Review

A. Upon receiving a formal written request for a review, the SDE shall within 10 calendar days notify the review panel

to evaluate the hearing decisions, the hearing record, and other appropriate information.

B. - E. ...

§514. Student Status During Proceedings

A. During the pendency of any administrative hearing or judicial proceeding pursuant to Part 500 Procedural Safeguards, the student involved must remain in the present educational placement unless the parent and the school system agree otherwise. Refer to §459.B.5(b).

B. ...

§517. Confidentiality of Information

* * *

A. - B. ...

C. Access Rights

1. Each school system shall permit parents to inspect and review educational records relating to their students which are collected, maintained or used by the agency under this Part. The school system shall comply with the request without unnecessary delay and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the student, and in no case shall the time exceed 45 calendar days after the request is made. The school system shall not destroy any educational records if there is an outstanding request to inspect and review the records.

2. - 3. ...

D. - O. ...

§630. General Responsibilities

A.1. - 4. ...

5. the adherence to all procedural safeguards of Part 500.

B.6. ...

§685. Repealed/Reserved.

§690. Instruction for Child Count

A. Each school system shall use LANSER for the purpose of tracking students with disabilities. Data from this system shall be used to produce the annual child count, as of December 1, for the purpose of generating grant awards under IDEA-B and the Preschool Grants Program.

B. Each school system/state agency must determine the eligibility of each student for inclusion in the December 1 child count, which will generate funds under IDEA-B. It is the responsibility of the school system/state agency to verify that each eligible student is receiving the special education and related services stated on the Individualized Education Program or early intervention services, as stated on the Individualized Family Service Plan. Eligibility requirements for IDEA- Part B and H must be determined as specified in the SDE Monitoring Procedures, Bulletin 1922.

§707. Enrollment (Admission and Release)

A. - A.1. ...

2. Students with disabilities shall not be admitted to a state board special school unless such students with disabilities are referred by a city/parish school system in compliance with the provisions of §440 and §443.D or in compliance with the provision of §716.

B. Release

1. - 2. ...

3. Prior to the release of any student placed in a state board special school through out-of-district placement procedures the department must review and approve each release.

C. - E. ...

§710. Repealed/Reserved.

§711. Instructions for Child Count

A. Each school system shall use LANSER for the purpose of tracking students with disabilities. Data from this system shall be used to produce the annual child count, as of December 1, for the purpose of generating grant awards under IDEA-B and the Preschool Grants Program.

B. Each school system/state agency must determine the eligibility of each student for inclusion in the December 1 child count, which will generate funds under IDEA-B. It is the responsibility of the school system/state agency to verify that each eligible student is receiving the special education and related services stated on the Individualized Education Program or early intervention services, as stated on the Individualized Family Service Plan. Eligibility requirements for IDEA- Part B and H must be determined as specified in the SDE Monitoring Procedures, Bulletin 1922.

§716. Louisiana School for the Deaf Alternative Placement

A. In compliance with R.S. 17:348 and R.S. 17:1946.B(2) the Louisiana School for the Deaf (LSD) shall:

1. determine, not later than the second Monday in September of each year, the number of additional students who may be admitted under this placement option;

2. base the determination on the availability of all necessary resources required to provide a free appropriate public education.

B. - E. ...

§801. General Statement

The BESE has authorized the SDE, Office of Special Educational Services under R.S. 17:1941-1958 et seq., to enter into any agreement developed with another public or private agency, or agencies, where such an agreement is consistent with the regulations; is essential to the achievement of full compliance with the regulations; is designed to achieve or accelerate the achievement of the full educational goal for all exceptional students; and is necessary to provide maximum benefits appropriate in service, quality, and cost to meet the full educational opportunity goal in the state. Each school system and the SDE shall enter into all interagency agreements specified in the regulations by following all the requirements in this Part.

* * *

§830. Types of Interagency Agreements

SDE and SSD Number 1 shall have agreements with the Department of Health and Hospitals (DHH), Social Services (DSS), and the Department of Public Safety and Corrections (DPS and C), and/or other state agencies and their sub-offices where appropriate. Local educational agencies shall have those agreements whenever necessary for the provision of a free appropriate public education. The State School for the Deaf, State School for the Visually Impaired and the State Special Education Center now under the auspices of SSD Number 1 shall have interagency agreements with:

- 1) the LEA in whose geographic area they are located;
- 2) each LEA that places a student in the day programs of that facility;
- 3) regional state agencies;
- 4) habilitation agencies with whom they share students.

§860. Resolving Interagency Disputes

A. ...

B. Interagency disputes at the local, regional, or state level which involve either program or financial responsibility will be referred to the Children's Cabinet in the Office of the Governor.

C. If a dispute continues beyond these interventions, either party of the dispute may seek resolution from a court of competent authority.

D. Repealed.

§902. Abbreviations/Acronyms used in these Regulations

(Editor's Note: Codification letters [A. - M.] are being removed in this Section, however all definitions remain in effect, except for one repeal and one newly adopted definition, as shown below.)

Chapter 1 S.O.P.—Repealed.

DSS—Department of Social Services.

§904. Definitions

(Editor's Note: Definitions found in §904 through §1000 are moved alphabetically to §904 and remain in effect, except those being adopted or amended as shown below.)

Alternative Setting—any educational setting within the preschool, elementary, and secondary structure of the state specially designed for providing for the needs of the exceptional student. Each setting should meet the standards of the state board and be approved by the department.

Alternative to Regular Placement Program—a program of study for exceptional students in which students will address an approved alternative curriculum rather than content and performance standards. These students will be pursuing a certificate of achievement and will not participate in The Louisiana Educational Assessment Program.

Autism—a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3 that adversely affects a child's educational performance. The essential features include:

1. disturbance of development rates and sequences: Normal coordination of the three developmental pathways (motor, social-adaptive, cognitive) is disrupted. Delays, arrests, and/or regressions occur among or within one or more of the pathways.
2. disturbances of responses to sensory stimuli. There may be generalized hyper-reactivity or hypo-reactivity, and/or alternation of these two states over periods ranging from hours to months.
3. disturbances of speech, language-cognitive, and nonverbal communication.
4. disturbance of the capacity to relate appropriately to people, events, or objects. There is failure to develop

appropriate responses to people and to assign appropriate symbolic meaning to objects or events.

5. associated features. Associated features vary with age and include other disturbances of thought, mood, and behavior. Mood may be labile: crying may be unexplained or inconsolable: there may be giggling or laughing without identifiable stimuli. There may be a lack of appreciation of real dangers such as moving vehicles as well as inappropriate fears. Self-injurious behavior, such a hair pulling and hitting or biting parts of the body, may be present. Stereotypic and repetitive movements of limbs or the entire body are common.

Certificate of Achievement

1. - 5. ...

6. The student has completed 70 percent of his annual goals while enrolled in an alternative to regular education program.

7. - 8. ...

Certified IEP Time Unit—Repealed.

Child Search Coordinator—the school system employee who is responsible for the child search and child identification activities including that of locating the student.

Combination Self-Contained and Resource Classroom—an alternative education setting in which the same teacher provides special education instruction for students who receive instruction in various special education settings. These settings include self contained, resource, and regular class.

Educational Assessment Services—include:

1. - 6. ...

Emotional/Behavioral Disorder—a disability characterized by behavioral or emotional responses so different from appropriate age, cultural, or ethnic norms that they adversely affect performance. Performance includes academic, social, vocational or personal skills. Such a disability is more than a temporary, expected response to stressful events in the environment; is consistently exhibited in two different settings; and persists despite individualized intervention within general education and other settings. Emotional and behavioral disorders can co-exist with other disabilities.

Evaluation—Repealed.

Exclusion—for a student with disabilities an exclusion occurs when he is separated from educational services including those on the IEP.

Generic Class—an instructional setting (self contained/resource) in which:

1. - 3. ...

4. The generic class meets the other requirement of the categorical self-contained or resource class.

Hearing Impairment—an auditory sensitivity (as measured by conventional behavioral audiological techniques or physiological measures, e.g., Auditory Brain Stem Response, etc.) so deficient as to significantly interfere with educational

performance. It includes students who are deaf or hard of hearing or who have unilateral hearing loss or high frequency hearing loss.

* * *

Individualized Family Service Plan (IFSP)—a written plan for providing early intervention services for ChildNet eligible children and their families. The determination of the most appropriate early intervention services, including any modifications in placement, service delivery, service providers or early intervention services is accomplished through the development of the IFSP. The IFSP must:

1. be developed jointly by the family and appropriate qualified personnel, including family service coordinators involved in the provision of early intervention services;

2. be based on the multi-disciplinary evaluation and assessment of the child and family;

3. include the services necessary to enhance the development of the child and the capacity of the family to meet the special needs of their child;

4. continue until the child transitions out of early intervention, either to other appropriate service providers at age 3, at such time that the family and multi-disciplinary professionals determine that services are no longer necessary or the family no longer desires early intervention services.

5. identify the location of the early intervention services to be provided in natural environments, including the home and community settings, in which children without special needs would participate.

If there is a dispute between agencies regarding the development or the implementation of the IFSP, the lead agency is responsible for taking the necessary actions to resolve the dispute or assign responsibility for developing or implementing the IFSP.

Individual Transition Plan (ITP)—a document to record a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The IEP/ITP must be completed beginning no later than age 16, and at a younger age if determined appropriate.

* * *

Instruction in Regular Class—an alternative education setting for eligible exceptional students who receive special education and related services less than 21 percent of the school day outside the regular classroom.

* * *

Learning Disabilities—are severe and unique learning problems as a result of significant difficulties in the acquisition, organization, or expression of specific academic skills or concepts. These learning problems are typically manifested in school functioning as significantly poor performance in such areas as reading, writing, spelling, arithmetic reasoning or calculation, oral expression or comprehension, or the acquisition of basic concepts. The term includes such conditions as attention deficit disorder, perceptual handicaps or process disorders, minimal brain

dysfunction, dyslexia, development aphasia, or sensorimotor dysfunction, when consistent with Bulletin 1508 criteria. The term does not include students who have learning problems which are primarily the result of visual, hearing, or motor impairments; of mental disabilities; of a behavior disorder; or of environmental, cultural, educational, or economic disadvantage.

* * *

Multi-Disciplinary Evaluation—an evaluation of a child, ages birth - 21 years, in all areas of suspected disability or exceptional ability through a systematic process of review, examination, interpretation, and analysis of screening data, developmental status, intervention efforts, interviews, observations, test results, as required, and other assessment information relative to the predetermined criteria. This evaluation is conducted by qualified examiners from two or more disciplines (e.g., educational diagnosticians, school psychologists, school social workers, speech pathologists). Additional assessment may be needed by service providers such as occupational therapists, physical therapists, and medical personnel, etc. The product of the evaluation is a professional interpretation of the child's abilities/performances, the nature and extent of the child's impairment or exceptional ability, and the recommendations for types of services necessary to meet the needs of the child. Evaluation is not synonymous with testing. The ultimate goal of the individual process is to provide information to educators, service providers and families which will facilitate future developmental/educational programming for the child. The term means procedures used selectively with an individual student and does not include basic tests administered to or procedures used with all children in a school, grade, class or program.

Multiple Disabilities—are concomitant impairments (such as mental disabilities-blindness, orthopedic impairment-deafness, autism-orthopedic impairments, or emotional/behavioral disorders-mental disabilities), the combination of which causes such severe educational problems that these pupils cannot be accommodated in special education programs solely for one of the impairments. The term does not include students with deaf-blindness nor may noncategorical preschool be used as one of the two impairments to classify for multiple disabilities.

* * *

Noncategorical Preschool—an exceptionality in which students 3 years through age 5, but not enrolled in a state approved kindergarten, are identified as having a disabling condition which is described, according to functional or developmental levels, as mild/moderate or severe profound. Students with disabilities who will turn 3 during the school year may be also identified as Noncategorical Preschool.

Comment: Students who exhibit a severe sensorial impairment, severe physical impairment, speech impairment, severe language disorder, or who are suspected of having autism, or being gifted or talented shall be identified categorically.

* * *

Other Health Impairments—limited strength, vitality, or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead

poisoning, leukemia, diabetes, ventilator assistance, or attention deficit disorder.

* * *

Para-Educator (teacher-aide)—a person who assists in the delivery of special educational services under the supervision of a special education teacher or other professional who has the responsibility for the delivery of special education services to exceptional students and who has all of the following qualifications:

- 1) is at least 20 years of age;
- 2) possesses a high school diploma or its equivalent; and
- 3) has taken a nationally validated achievement test and scored such as to demonstrate a level of achievement equivalent to the normal achievement level of a tenth grade student.

Para-Educator Training Unit—a setting that may be used for the self-help training (toilet training, dressing skills, grooming skills, feeding skills, and pre-academic readiness activities) students with severe or low incidence disabilities or preschool students. A school-aged unit may be made up of no more than six para-educators. A preschool unit may be made up of no more than four para-educators. All units must be supervised directly by a certified special education teacher.

* * *

Resource Departmentalized Setting—an instructional setting in which students receive instruction from a special education teacher who teaches only a single content or subject matter area. The pupil teacher ratio shall be consistent with those listed in Part B of these regulations. Instruction is provided for not more than the maximum allowed for that exceptionality in a self contained class at any given period.

Resource Room—a type of alternative education setting for special education and related services designed or adapted as a location where exceptional students may receive all or a part of the special education required by their IEP, and in which all of the following exist:

1. - 2. ...
3. Instruction is provided for not more than 12 students whose exceptionalities are not severe or low incidence for any one hour of instructional time.
4. ...
5. Students receive special education and related services for at least 21 percent but no more than 60 percent of the school day outside the regular classroom.

School Building Level Committee—a committee of at least three school level staff members which may be identified as a SBLC, SAT, STAT, etc., at the discretion of the LEA. The committee must be comprised of at least the principal/designee, a classroom teacher, and the referring teacher. It is suggested that other persons be included, such as the guidance counselor, reading specialist, master teacher, nurse, parents, pupil appraisal personnel, etc. This committee is a problem-solving, decision-making group who meet on a scheduled basis to receive referrals from teachers, parents, or other professionals on individual students who are experiencing difficulty in school due to academic and/or behavior problems. In most instances, for enrolled students,

it is only through the SBLC that a referral can be made to pupil appraisal for an individual evaluation.

School Health Services—services provided by a qualified school nurse or other qualified person. These services may include, but are not limited to, the following:

1. - 5. ...

* * *

Self-Contained Departmentalized—an instructional setting in which students receive instruction from more than one special education teacher. Pupil/teacher ratios shall be consistent with those listed in Part B of these regulations. Instruction is provided for not more than the maximum number allowed for that exceptionality in a self-contained class at any given period.

Self-Contained Special Education Class—a type of alternative education setting in which special education instruction and related services are provided outside the regular classroom more than 60 percent of the school day.

* * *

Specially Designed Regular Instruction Program—a program of study designed for exceptional students in which students will address content and performance standards with significant variations allowed in time, methods and materials. These students will participate in the Louisiana Educational Assessment Program and will be working toward a high school diploma.

* * *

Speech Impairment—the basic communication system (whether oral, gestural, or graphic) evidences disorders or deviations in language, articulation, fluency or voice, which interfere with the student's educational performance or developmental functioning. Dialectal variations alone do not qualify a student to be classified with speech impairments.

* * *

Student Specific Aide—Repealed.

1. - 6. Repealed.

* * *

Supplemental Aids and Services—any modification to the regular educational program the IEP committee determines that the student needs to facilitate his/her placement in the regular educational environment.

Support Services—services provided to regular education students who are not suspected of being exceptional but who are experiencing difficulty in their educational performance. The purpose of support services is to investigate a student's instructional/behavioral needs based on classroom curricula demands. These services are not intended to include standardized assessment in which a student is compared to a national norm group. These services may be as follows:

1. *Direct Support Services*—services provided directly to a regular education student which may include but are not limited to, individualized interventions, curriculum-based assessment, and task analysis.

2. *Indirect Support Services*—services provided to the classroom teacher, a student's family, or to a whole class. These services could include, but are not limited to, home/school behavior modification program, discipline techniques, and teaching strategies.

* * *

§915. - §1000. Repealed. Reserved.

Part A. State Funding and Program

Rules for Special Education

(Editor's Note: Part A. is being repealed in its entirety and repromulgated, using a new numbering system, I. - IV., as shown below.)

I. Cost of Determining a Minimum Foundation Program for Special Education. The Minimum Foundation Program (MFP) formula determines the cost of a minimum foundation program of education in all public elementary and secondary schools and helps to equitably allocate the funds to parish and city school systems. The MFP formula also recognizes increased costs for providing special education services by placing additional funding weights on special education students and transportation units. For specific fiscal and compliance issues refer to Bulletin 1947, Minimum Foundation Program Handbook.

II. Use of Special Education Personnel

A. Special education teachers, therapists, para-educators and special education supervisors shall be used to provide services only to those exceptional students needing special education and related services or in a program approved by the State Board of Elementary and Secondary Education.

B. Certified pupil appraisal personnel shall be used for the purpose of providing pupil assessment services provided in accordance with Part 400 of these regulations.

C. Each school system must be in compliance with the ratios described in Part B of these regulations.

III. Certification Requirements. Staff or school systems who provide special education and related services to exceptional students must currently meet all applicable Louisiana Standards for State Certification of School Personnel (Bulletin 746).

IV. Travel and Preparation Time

A. Each teacher providing instruction in an itinerant special education program shall be afforded adequate travel time and one instructional period per day for preparation and consultation with the student's regular teacher and other applicable school personnel.

B. Each teacher providing instruction in a resource room shall be afforded one instructional period per day for preparation and consultation with the student's regular teacher and other applicable school personnel.

Part B. Pupil/Teacher, Pupil/Speech/Language Pathologist, Pupil/Para-Educator and Pupil/Appraisal Ratios for Public Education

(Editor's Note: Part B.I. - IV. replaces the existing Part B, in its entirety)

I. In providing services to all identified exceptional children, the number of students in each instructional setting shall not exceed the following numbers.

A.	Self-contained classroom	Pre-school	Elem.	Sec.
1.	Autism	4	4	4
2.	Emotional/Behavioral Disorders		8	8
3.	Blindness	7	9	9
4.	Deafness	7	9	9

5.	Deaf-Blindness	4	4	4
6.	Educationally Handicapped/Slow Learner		25	25
7.	Gifted		25	27
	a. Full day	19		
	b. Half day	23		
8.	Hard-of-Hearing	11	15	17
9.	Learning Disabilities		13	15
10.	Mental Disabilities			
	a. Mild		17	17
	b. Moderate		11	17
	c. Severe		9	9
	d. Profound		9	9
11.	Mild/Moderate (Generic)		16	16
12.	Multiple Disabilities	7	9	9
13.	Noncategorical Preschool			
	a. Mild/Moderate Functioning			
	1. Full day	11		
	2. Half day	16		
	b. Severe/Profound Functioning			
	1. Full day	7		
	2. Half day	14		
14.	Other Health Impairments		17	17
15.	Orthopedic Impairments	7	11	13
16.	Partial Seeing	11	15	17
17.	Severe Language Disorders	7	9	9
18.	Severe/Profound (Generic)		9	9
19.	Talented		25	27
20.	Traumatic Brain Injury	7	9	9

B. Para-educator Training Units. Preschool-Aged Students: One teacher and two para-educators for the initial six preschool students. For students functioning with the severe/profound range, there shall be one additional para-educator for any additional group of three not to exceed two additional groups of such students. For students functioning within the mild/moderate range, the additional

para-educators shall be added for each additional group of four. The maximum number of students may not exceed 12.

School-Aged Students. One teacher and two para-educators for the initial six students with severe/profound or low incidence disabilities, provided that after the initial six there shall be one additional para-educator for any additional group of three, not to exceed four additional groups of such students. The maximum number of students many not exceed 18 per unit.

C. Resource Room (Generic or Categorical) and Itinerant Instruction Programs (per teacher)

- 1. Students with severe or low incidence impairments/disabilities 10
- 2. All other students with disabilities 27
- 3. Gifted or talented pupils 30

Comment: Because of the travel requirement of the program, this range may be reduced by the school system to 10-19 when instruction is provided to "all other students with disabilities" and "gifted or talented pupils" in at least two different schools.

D. Combination Classrooms

- 1. Students with severe/low incidence impairments/disabilities 12
- 2. All other students with disabilities 20
- 3. Gifted 22

E. Gifted or Talented Resource Center 55

F. Hospital/Homebound Instruction (per teacher)

- 1. Itinerant 10
- 2. One Site 17

G. Preschool Intervention Settings (parent/child training)

- 1. Intervention in the Home 15
- 2. Intervention in a School or Center 19

H. Adapted Physical Education Instruction (per teacher) 60

- 1. In caseloads exceeding 35 students, the total number of students identified as having a severe motor deficit shall not exceed 17.
- 2. Itinerant Instruction (two or more schools) 40

I. Instruction in Regular Classes

- 1. Students with severe or low incidence impairments/disabilities 9
- 2. All other students with disabilities 16

Comment: This ratio refers to the caseload of special education teachers who provide instruction for students with disabilities in general education settings.

J. Self Contained or Resource Departmentalized Setting

	Elem.	Sec.
1. Autism	15	15
2. Blindness	33	33
3. Deafness	33	33
4. Deaf-Blind	15	15
5. Educationally Handicapped/Slow Learner	93	93
6. Emotional/ Behavioral Disorders	30	30

7. Gifted	93	98
8. Hard of Hearing	58	63
9. Learning Disabilities	50	58
10. Mental Disabilities		
a. Mild	63	63
b. Moderate	43	63
c. Severe	33	33
d. Profound	33	33
11. Mild/Moderate Generic	58	58
12. Multiple Disabilities	33	33
13. Other Health Impairments	63	63
14. Orthopedic Impairments	43	45
15. Partial Seeing	58	63
16. Severe Language Disorders	33	33
17. Severe/Profound Generic	33	33
18. Talented	93	98
19. Traumatic Brain Injury	33	33

II. Para-educators. Para-educators may be hired to meet the unique needs of students with exceptionalities.

III. Speech/language pathologists in school systems shall be employed at the rate of one for each 30 (or major fraction thereof) students receiving speech therapy. In determining the number of pupils, the following criteria specified in Bulletin 1508 shall be used.

1. Each student will receive speech therapy as specified in §984.

2. Each speech/language pathologist shall be assigned a minimum of one student in speech therapy and shall not be assigned more than 79 points.

3. Each hour per week of pupil appraisal assessment services and/or supervision of speech/language pathologists who hold restricted license and/or supervision of speech pathology assistants shall equal one point for the purpose of determining the caseload.

4. Assignment of these activities shall be made by the parish supervisor.

The caseload shall be determined according to the following:

Service Type	Number of Points Determining Caseload
Each hour of assessment	1
Each hour of supervision	1
Each hour of consultation	1
Each student receiving speech therapy	1

IV. Pupil appraisal members shall be employed by school systems at the following rate:

	Public School Ratios Based on Membership	NonPublic Ratios Based on Membership
Educational Diagnosticians	2,400 or major fraction thereof	1:3,500 or major fraction thereof
School Psychologists	2,400 or major fraction thereof	1:3,500 or major fraction thereof
Social Workers	3,200 or major function thereof	1:4,500 or major function thereof

Comment: School systems may substitute one pupil appraisal for another provided that all pupil appraisal services are provided in accordance with these regulations and Bulletin 1508.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941-1958.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education: LR 23:

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

Interested persons may submit written comments until 4:30 p.m., December 10, 1997 to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1706—Exceptional
Children's Act**

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

Estimated implementation costs to the Department of Education for the first year is \$12,000 for printing and postage. The increased costs, if any, to each local governmental unit to implement these revisions will vary. To implement the "Instruction in Regular Class" instructional model, school systems may find it necessary to employ additional teachers. If teachers would need to be hired, the average annual salary of a beginning teacher is \$20,000 with the sources being the state Minimum Foundation Program and local funds.

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$1,600. Funds are available.

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

If local school systems find it necessary to hire additional teachers, local revenues from the state Minimum Foundation Program will increase if the state adjusts the weight for special education students accordingly.

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

No costs or benefits are estimated from the proposed changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

New special education teachers may be hired under this instructional model.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9710#105

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1868—Personnel Manual (LAC 28:I.922)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revised Bulletin 1868, BESE Personnel Manual. Revisions to the manual were developed as a result of federal and state mandates, board action, or reworded for clarification as a result of using the manual. It should be noted that the clause "exclusive of the central office staff" which appeared after Special School District Number 1 has been eliminated from the bulletin. The salary schedule for technical colleges has been deleted from the bulletin.

Copies of this bulletin have been provided to all entities under the jurisdiction of the Board of Elementary and Secondary Education and listed below:

- 1) each technical college;
- 2) BESE's special schools—Louisiana School for the Deaf, Louisiana School for the Visually Impaired, Louisiana Special Education Center;
- 3) each site operated by Special School District Number 1;
- 4) Louisiana Association of Educators and Louisiana Federation of Teachers.

Bulletin 1868 is referenced at LAC 28:922.A.

A printed copy of the bulletin may be seen in the Office of the State Register, located on the fifth floor of the Capitol Annex; in the office of the State Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge; in the Office of Vocational Education; or in the office of Special School District Number 1 located on the third floor of the Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:43 and 17:540.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 23:

Interested persons may submit written comments until 4:30 p.m., December 10, 1997 to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1868—Personnel Manual**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no cost savings anticipated due to the adoption of this bulletin. Changes in the bulletin result from need to address revised state/federal law or regulation. Procedural changes, such as revised elements of grievances, were adopted to clarify elements and responsibilities and have no fiscal impact. Increased costs resulting from revision of the teacher aide/paraprofessional pay scale, as required by passage of legislation, will be \$48,390 for 1997-98. BESE's estimated cost for printing this policy change and first page of fiscal economic impact statement in the *Louisiana Register* is approximately \$3,000. Funds are available.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This document does not address revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The technical college system's salary scale in the prior revision has been deleted. The teacher aide/paraprofessional pay scale has been revised to reflect the recently approved \$350 support personnel pay raise (legislation). Salaries for technical college employees are now determined by BESE annually and are submitted for approval via the state budget process. The cost of implementation of the revised teacher aide/paraprofessional pay scale will be \$48,390 for 1997-98 (\$350 for 120 employees, plus related benefits).
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Procedures for employment and promotion are restated from prior bulletins and reflect EEO assurances.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9710#121

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1934—Starting Points
Preschool Program (LAC 28:I.906)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement a revision to Bulletin 1934, Starting Points Preschool Program. The revision amends the Section under Eligibility Criteria and Eligibility Definitions. The qualifying rate for the Starting Points Preschool Program participants will increase from 75 percent to 85 percent of the state median income for families of the same size.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§906. Early Childhood Programs**

* * *

B. Bulletin 1934, Starting Points Preschool Regulations is adopted, revised April 1995.

* * *

(See Prior Text)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 21:1221 (November 1995), amended LR 23:

Starting Points Preschool Program, Bulletin 1934

* * *

(See Prior Text)

Eligibility Criteria

In order to qualify for the Starting Points Preschool Program, participants must be:

1. ...
2. residing in a family whose mean income is no more than 85 percent of the state median income for a family of the same size;

* * *

(See Prior Text)

Eligibility Definitions

A. - E. ...

F. *Income*—basic income eligibility would be based on 85 percent of the state median income adjusted for family size. Earned income is used in determining eligibility.

* * *

(See Prior Text)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 21:1221 (November 1995), amended LR 23:

Interested persons may submit written comments until 4:30 p.m., December 10, 1997 to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1934—Starting
Points Preschool Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$40. Funds are available.
There is no estimated increased cost in the program as the same amount of pupils will be served with the same allocations to the local education agencies as the year before. The change is in eligibility requirements and not the population served.

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

There is no effect on revenue collection with the adoption of this bulletin.

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

This rule change may increase the number of children eligible for the Starting Points Preschool Program but will not increase the number served. Parents and children will benefit from the Starting Points Preschool Program. The availability of this program enables parents to return to the workforce or receive training/education which will enable them to return to work while the children are provided educational experiences directed toward the development of cognitive, social, emotional, and physical skills.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of this change.

Marlyn Langley
Deputy Superintendent
Management and Finance
9710#079

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Minimum Foundation Program (MFP)—Student Membership (LAC 28:I.1709)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement the following revision to the Minimum Foundation Program (MFP) student membership definition.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 17. Finance and Property

§1709. Budget

A. - H. ...

I. MFP: Equalization Grant

1. ...

2. Student Membership. For state reporting for public education for the purpose of establishing the base student count for state funding, each parish and city school system shall adhere to the following:

* * *

[See Prior Text 2.a-b.ii.(c)]

iii. Students who are in BESE and parish/city school system-approved alternative programs (schools), will be included in the base student count for membership.

* * *

[See Prior Text 2.b.iv- vi]

vii. Regular prekindergarten (4-year-old program) students will NOT be included in the base student count for membership.

viii. Private school students receiving services through the public school system will NOT be included in the base student membership.

*If October 1 falls on a Saturday, report membership on September 30. If October 1 falls on a Sunday, report membership on October 2.

3. Add-on Students/Units. For purposes of establishing the data sets used in determining the add-on students/units, the following will be adhered to:

a. At-Risk Student Count shall be determined by the number of students whose family income is at or below income eligibility guidelines or other guidelines, as provided by BESE. The current guidelines include those students who have approved applications to participate in the federal free and reduced price lunch program. The count is determined by the number of approved applications for the free and reduced price lunch program during the month of October, as reported in the Student Information System (SIS).

b. Vocational Education Unit Count shall be determined by the number of Secondary Vocational Education courses per student, as reported by the school districts through the Annual School Report for the prior year.

c. Special Education. Other Exceptionalities Student Count shall be determined by the number of special education students identified as having "other exceptionalities" in the LANSER database as of October 1 including:

i. infants and toddlers ages 0-2, who are currently receiving services; and

ii. both public and nonpublic special education students ages 3-21 identified as having a disability, as defined by R.S. 17:1943, who are receiving services from the local school district only (students serviced by SSD Number 1 and certain correctional facilities are excluded).

d. Special Education. Gifted and Talented Student Count shall be determined by the number of special education students identified in the LANSER database as of October 1, which includes both public and nonpublic special education students ages 3-21 identified as gifted and talented, as defined by R.S. 17:1943, who are receiving services from the local public school district only.

e. Economy of Scale Student Count shall be determined by the number of students in the base student count, as defined in LAC 28:I.1709.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:22, R.S. 17:2006, R.S. 39:41-62, R.S. 39:454, R.S. 39:461.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:

Interested persons may submit comments until 4:30 p.m., December 10, 1997 to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Minimum Foundation
Program (MFP)— Student Membership**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no cost of implementation of this change to either the local school districts or the department.
BESE estimated cost for printing this policy change and the first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$80. Funds are available.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no net effect on revenue collections of any state or local governmental units. The same amount of funds provided through the elementary and secondary education budget in prior years for the Bossier Parish Community College will now be provided through the higher education budget.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9710#078

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Weegie Peabody
Executive Director

NOTICE OF INTENT

Board of Elementary and Secondary Education

Vo-Tech Attendance Policy (LAC 28:I.1523)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has approved for advertisement an amendment to the attendance policy for the technical colleges.

**Title 28
EDUCATION**

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

**Subchapter B. Vocational-Technical Education
§1523. Students**

A. ...
B. Attendance Policy. College enrollment assumes maturity, seriousness of purpose, and self-discipline for meeting the responsibilities associated with the courses for which a student registers. The primary mission of the Louisiana Technical College System is to prepare individuals for employment. Success in education and employment is dependent upon preparation and regular attendance. Recommendation to employers for job placement will depend on technical and academic preparation, as well as regular

attendance. Students are expected to attend all classes. No class cuts are authorized. If an absence occurs, it is the responsibility of the student to make up all work missed. Students who do not officially drop or withdraw within the prescribed dates for this action or who discontinue attendance will receive an "F" in the course or courses. Under no circumstances will an absence, for any reason, excuse the student from completing all work assigned in a given course. After an absence, it is the student's responsibility to check with the instructor about the completion of missed assignments. Any student who accumulates excessive absences (10 percent of the total classes in a course within a term) which are unexcused, may be suspended from that class for the remainder of the term and result in a grade of "F" for the class. (Details of excused absences, etc. to be determined at the school level.) This policy shall be superseded by any more stringent attendance policy required by a regulatory or license body.

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:

Interested persons may submit comments until 4:30 p.m., December 10, 1997 to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Vo-Tech Attendance Policy**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
BESE's estimated cost for printing and distributing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is \$300 plus cost for the EIP. No additional paperwork or forms are required. Of the total cost, printing will be \$275 and distribution will be \$25. The new policy will have to be printed and distributed to all currently enrolled students.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units as a result of this action. Tuition is collected at the beginning of each term, and this new policy will not affect the collection or refund of tuition.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs to persons or nongovernmental groups because of this action. As the Technical College System moves to more accountability, it is appropriate to place the responsibility on the student for attendance. College enrollment assumes maturity, seriousness of purpose, and self-discipline for meeting the responsibilities associated with the courses for which a student registers. The primary mission of the Louisiana Technical College System is to prepare individuals for employment. Success in education and employment is dependent upon preparation and regular attendance.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition as a result of this action.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9710#081

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Comprehensive Toxic Air Pollutant Emission Control Program (LAC 33:III.5113, 5116, and 5122); Area Sources of Toxic Air Pollutants (LAC 33:III.5311) (AQ162*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.5113, 5122, and 5311 (AQ162*).

This proposed rule is identical to federal law or regulations, 40 CFR Parts 61 and 63, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the proposed rule. Therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4). This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

This proposed rule will incorporate by reference, into LAC 33:III.Chapters 51 and 53, additional federal regulations in 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAP) and 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories as they pertain to major sources. These changes will expedite both the EPA approval process and the state implementation of delegation of authority for the NESHAP program. The NESHAP and the authority for EPA to delegate authority of that program to the state are established in the Clean Air Act Amendments of 1990, Section 112. This rulemaking is applicable to stationary sources statewide.

The basis and rationale for this rule are to maintain the delegation of authority from EPA to implement the NESHAP program. Louisiana incorporated certain NESHAP regulations by reference on January 20, 1997. In agreement with the revised delegated authority mechanism and with EPA grant objectives, the department is proposing to incorporate additional NESHAP regulations by reference.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 51. Comprehensive Toxic Air Pollutant
Emission Control Program**

Subchapter A. Applicability, Definitions, and General Provisions

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

* * *

[See Prior Text in A - C.5]

a. Upon request, the owner or operator of any affected facility shall evaluate the performance of continuous monitoring systems and furnish the administrative authority with two or more copies of a written report of the test results within 60 days. The performance of the continuous monitoring systems shall be evaluated in accordance with the requirements and procedures contained in the applicable performance specification of 40 CFR Part 60, Appendix B.

* * *

[See Prior Text in C.5.b - C.7]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1364 (December 1992), LR 23:59 (January 1997), LR 24:

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Code of Federal Regulations* at 40 CFR Part 61, revised as of July 1, 1996, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR 61	Subpart/Appendix Heading
Subpart A	General Provisions
Subpart C	National Emission Standard for Beryllium
Subpart D	National Emission Standard for Beryllium Rocket Motor Firing
Subpart E	National Emission Standard for Mercury
Subpart F	National Emission Standard for Vinyl Chloride
Subpart J	National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene
Subpart V	National Emission Standard for Equipment Leaks (Fugitive Emission Sources)
Subpart Y	National Emission Standard for Benzene Emissions from Benzene Storage Vessels
Subpart BB	National Emission Standard for Benzene Emissions from Benzene Transfer Operations

Subpart FF	National Emission Standard for Benzene Waste Operations
Appendix A	National Emission Standards for Hazardous Air Pollutants, Compliance Status Information
Appendix B	Test Methods
Appendix C	Quality Assurance Procedures

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Federal Register* as promulgated from July 2, 1996, through July 1, 1997, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR 61	Federal Register Citation	Date Promulgated	Subpart/ Appendix Heading
Subpart A	62 FR 8328	February 24, 1997	General Provisions

[See Prior Text in C - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 24:

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR Part 63, revised as of July 1, 1996, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

40 CFR 63	Subpart/Appendix Heading
*** [See Prior Text in Subpart A - B]	
Subpart C	List of Hazardous Air Pollutants, Petition Process, Lesser Quantity Designations, Source Category List
*** [See Prior Text in Subparts D - X]	
Subpart Y	National Emission Standards for Marine Tank Vessel Loading Operations
Subpart CC	National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries

Subpart DD	National Emission Standards for Hazardous Air Pollutants from Off-site Waste and Recovery Operations
Subpart GG	National Emission Standards for Aerospace Manufacturing and Rework Facilities
Subpart II	National Emission Standards for Shipbuilding and Ship Repair (Surface Coating)
Subpart JJ	National Emission Standards for Wood Furniture Manufacturing Operations
Subpart KK	National Emission Standards for the Printing and Publishing Industry
Subpart OO	National Emission Standards for Tanks - Level I
Subpart PP	National Emission Standards for Containers
Subpart QQ	National Emission Standards for Surface Impoundments
Subpart RR	National Emission Standards for Drain Systems
Subpart VV	National Emission Standards for Oil-water Separators and Organic-water Separators
*** [See Prior Text in Appendix A - C]	
Appendix D	Alternative Validation Procedure for EPA Waste and Wastewater Methods

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Federal Register* as promulgated from July 2, 1996, through July 1, 1997, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

40 CFR 63	Federal Register Citation	Date Promulgated	Subpart/Appendix Heading
Subpart C	61 FR 37542	July 18, 1996	List of Hazardous Air Pollutants, Petition Process, Lesser Quantity Designations, Source Category List
Subpart F	61 FR 64574	December 5, 1996	National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry
	62 FR 2729	January 17, 1997	
Subpart G	61 FR 64575	December 5, 1996	National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater
	62 FR 2742	January 17, 1997	

Subpart H	62 FR 2788	January 17, 1997	National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks
Subpart I	62 FR 2792	January 17, 1997	National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks
Subpart M	61 FR 49265	September 19, 1996	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities
Subpart R	62 FR 9092	February 28, 1997	National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)
Subpart U	61 FR 46924	September 5, 1996	National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins
	62 FR 1837	January 14, 1997	
Subpart X	61 FR 65336	December 12, 1997	National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting
	62 FR 32216	June 13, 1997	
Subpart CC	62 FR 7938	February 21, 1997	National Emission Standards for Hazardous Air Pollutants: Petroleum Refineries
Subpart GG	61 FR 66227	December 17, 1996	National Emission Standards for Hazardous Air Pollutants for Source Categories: Aerospace Manufacturing and Rework Facilities
Subpart II	61 FR 66227	December 17, 1996	National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair (Surface Coating) Operations
Subpart JJ	62 FR 30259	June 3, 1997	National Emission Standards for Hazardous Air Pollutants; Final Standards for Hazardous Air Pollutant Emissions from Wood Furniture Manufacturing Operations
	62 FR 31363	June 9, 1997	

Subpart JJJ	61 FR 48229	September 12, 1996	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins
	62 FR 1838	January 14, 1997	
	62 FR 30995	June 6, 1997	
Appendix A	62 FR 2793	January 17, 1997	Test Methods
	62 FR 12546	March 17, 1997	
Appendix C	62 FR 2801	January 17, 1997	Determination of the Fraction Biodegraded (Fbio) in the Biological Treatment Unit

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 23:61 (January 1997), amended LR 24:

Chapter 53. Area Sources of Toxic Air Pollutants
Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR part 63, revised as of July 1, 1996, and specifically listed in the following table are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

40 CFR 63	Subpart/Appendix Heading
Subpart A	General Provisions
Subpart M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities
Subpart X	National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Federal Register* as promulgated from July 2, 1996, through July 1, 1997, and specifically listed in the following table are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

40 CFR 63	Federal Register Citation	Date Promulgated	Subpart/Appendix Heading
Subpart M	61 FR 49265	September 19, 1996	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities
Subpart X	61 FR 65336	December 12, 1996	National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting
	62 FR 32216	June 13, 1997	

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 23:63 (January 1997), amended LR 24:

A public hearing will be held on November 24, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ162*. Such comments must be received no later than November 24, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. The comment period for this rule ends on the same date as the public hearing.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen
Assistant Secretary

9710#113

NOTICE OF INTENT

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

**Control of Emissions of Organic
Compounds—Exemptions (LAC 33:III.2117)(AQ165*)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the

secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.2117 (AQ165*).

This proposed rule is identical to a federal law or regulation, 62 CFR 44900, Number 164, August 25, 1997, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the proposed rule. Therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4). This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

This proposed rule is revising LAC 33:III.2117 in accordance with the final rule promulgation by the US EPA published in the August 25, 1997 *Federal Register*. The state is adding an additional 19 Volatile Organic Compounds (VOC) to the exemption list to be consistent with EPA's VOC exemption list. The basis and rationale for this rule are to mirror the federal regulations.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2117. Exemptions

The following compounds are considered exempt from the control requirements of this Chapter: methane; ethane; 1, 1, 1 trichloroethane (methyl chloroform); methylene chloride (dichloromethane); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); 1,1,2-trichloro 1,2,2-trifluoroethane (CFC-113); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); acetone; parachlorobenzotrifluoride (PCBTF); perchloroethylene (tetrachloroethylene); cyclic, branched, or linear completely methylated siloxanes; 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC-43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc) chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane

NOTICE OF INTENT

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

(C₄F₉OCH₃); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane [(CF₃)₂CFCF₂OCH₃]; 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅); and 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane [(CF₃)₂CFCF₂OC₂H₅]. The following classes of perfluorocarbons are also considered exempt from the control requirements of this Chapter: cyclic, branched, or linear, completely fluorinated alkanes; cyclic, branched, or linear, completely fluorinated ethers with no unsaturations; cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:118 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:289 (March 1994), LR 21:681 (July 1995), LR 21:1330 (December 1995), repromulgated LR 22:14 (January 1996), amended LR 22:703 (August 1996), LR 24:

A public hearing will be held on November 24, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ165*. Such comments must be received no later than November 24, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504)765-0486. The comment period for this rule ends on the same date as the public hearing.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen
Assistant Secretary

9710#114

Permit Procedures (LAC 33:III.501, 509, 517); Emission Standards for Sulfur Dioxide (LAC 33:III.1503 and 1507); Control of Emission of Organic Compounds (LAC 33:III.Chapter 21); Emission Standards for the Nitric Acid Industry (LAC 33:III.2307); Biomedical Waste Incinerators; Crematories (LAC 33:III.2511 and 2531); Standards of Performance for New Stationary Sources (NSPS) (LAC 33:III.3003)(AQ161*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.Chapters 5, 15, 21, 23, 25, and 30, (AQ161*).

This proposed rule is identical to a federal law or regulation, 40 CFR Part 60, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the proposed rule. Therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4). This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

This proposed rule updates LAC 33:III.Chapter 30 to incorporate without change 40 CFR Part 60 as revised July 1, 1996, and Part 60 standards promulgated by EPA in *Federal Register* notices during the period July 2, 1996 through June 30, 1997, and September 15, 1997. Upon final rulemaking, the state will receive delegated authority to implement the new and revised standards. Correction to regulatory references are also made in LAC 33:III.Chapters 5, 15, 21, 23, and 25. The basis and rationale for this rule are to maintain the delegation of authority from EPA to implement National Standards of Performance for New Stationary Sources (NSPS). To meet the 1996-97 EPA grant objectives, the state must promulgate the NSPS standards into the LAC exactly as promulgated by EPA.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

* * *

[See Prior Text in A - B.3.b]

c. 40 CFR Part 60 AAA - Standards of Performance for New Residential Wood Heaters; or

d. regulations promulgated in accordance with the federal Clean Air Act under Section 112(r) - Prevention of Accidental Releases.

* * *

[See Prior Text in B.4 - C.9]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 24:

§509. Prevention of Significant Deterioration

* * *

[See Prior Text in A - A.2]

B. Definitions. For the purpose of this Part the terms below shall have the meaning specified herein as follows:

* * *

[See Prior Text]

Reconstruction—will be presumed to have taken place where the fixed capital cost of the new component exceeds 50 percent of the fixed capital cost of a comparable entirely new source. Any final decision as to whether reconstruction has occurred must be made in accordance with the provisions of 40 CFR 60.15(f).(1)-(3).

* * *

[See Prior Text in B. *Secondary Emissions* - S.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 24:

§517. Permit Applications and Submittal of Information

* * *

[See Prior Text in A - D.16]

17. any information needed to assess and collect permit application and annual maintenance fees owed in accordance with LAC 33:III.Chapter 2; and

* * *

[See Prior Text in D.18 - G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:1375 (December 1994), amended by the Office of the Secretary LR 22:344 (May 1996), amended by the Office of Air Quality and Radiation Protection, Air Quality Division in LR 23:405 (April 1997), LR 24:

Chapter 15. Emission Standards for Sulfur Dioxide

§1503. Emission Limitations

As used in this Section, a *three-hour average* means the average emissions for any three consecutive one-hour periods (each commencing on the hour), provided that the number of three-hour periods during which the SO₂ limitation is exceeded is not greater than the number of one-hour periods during which the SO₂ limitation is exceeded.

A. Sulfuric Acid Plants New and Existing. The emissions of sulfur dioxide and acid mist from new sulfuric acid production units which commence construction or modification after August 17, 1971, shall be limited to that specified in 40 CFR 60.82 and 60.83, e.g. 4.0 pounds/ton of 100 percent H₂SO₄ (2 kilograms/metric ton) and 0.15 pounds/ton of 100 percent H₂SO₄ (.075 kilograms/metric ton) respectively (three-hour averages). Emissions from existing units shall be limited as follows: SO₂—not more than 2000 ppm by volume (three-hour average); acid mist—not more than 0.5 pounds/ton of 100 percent H₂SO₄ (three-hour average).

B. Sulfur Recovery Plants—New and Existing. The emission of sulfur oxides calculated as sulfur dioxide from a new sulfur recovery plant which commences construction or modification after October 4, 1976, shall be limited to that specified in 40 CFR 60.104(a)(2). The emission of sulfur oxides calculated as sulfur dioxide from an existing plant shall be limited to a sulfur dioxide concentration of not more than 1,300 ppm by volume (three-hour average).

* * *

[See Prior Text in C - Table 4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:374 (April 1992), LR 22:1212 (December 1996), LR 24:

§1507. Exceptions

A. Start-Up Provisions

1. A four-hour (continuous) start-up exemption from the emission limitations of LAC 33:III.1503.A may be authorized by the administrative authority for plants not subject to 40 CFR 60.82 and 60.83 which have been shut down. A report in writing explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emission shall be submitted to the administrative authority within seven calendar days of the occurrence.

* * *

[See Prior Text in A.2 - B]

1. A four-hour (continuous) exemption from emission limitations of LAC 33:III.1503.A may be extended by the administrative authority to plants not subject to 40 CFR 60.82 and 60.83 where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emission shall be submitted to the administrative authority within seven calendar days of the occurrence.

* * *

[See Prior Text in B.2 - C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), LR 24:

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General
§2108. Marine Vapor Recovery

[See Prior Text in A - E.1.b]

2. Vapor processing systems utilizing a flare stack to destruct the collected VOCs will be exempt from testing and must be designed and operated in accordance with 40 CFR 60.482-10(d).

[See Prior Text in E.3 - H.2]

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 14:704 (October 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 22:1212 (December 1996), LR 24:

§2122. Fugitive Emission Control for Ozone Nonattainment Areas

[See Prior Text in A - A.5]

6. Applicable facilities as defined in Subsection A.1 of this Section which are subject to New Source Performance Standards, 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V) may become exempt from this Section by:

a. submitting a written notice to the administrative authority* informing them of the facility's request to become exempt from this Section and how 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V) will be administered to obtain that exemption;

b. applying 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V) to leak limitations specified in Subsection C.1 of this Section rather than 10,000 ppm as specified in 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V);

c. including connectors as leak sources monitored and repaired using the restrictions in 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V) which apply to valves; and

d. increasing monitoring frequency only when the leaking sources monitored and repaired using the restrictions in 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V) which apply to valves equal or exceed 2 percent of the valves monitored at or above 10,000 ppm.

[See Prior Text in B - C.1.c]

d. Any pump or valve in heavy liquid service observed leaking by sight, sound, or smell shall be monitored within five days by the method specified in 40 CFR Part 60, appendix A (Method 21). If the pump or valve is determined to be leaking in excess of the applicable limits given in this Subsection, it shall be repaired according to Subsection C.3 of this Section.

[See Prior Text in C.2 - G.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1102 (October 1994), repromulgated LR 20:1279 (November 1994), amended LR 22:1129 (November 1996), LR 22:1212 (December 1996), repromulgated LR 23:197 (February 1997), amended LR 24:

Subchapter B. Organic Solvents
§2123. Organic Solvents

[See Prior Text in A - E.5]

6. Performance test procedures described in 40 CFR 60.444;

[See Prior Text in E.7 - F.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 24:

Subchapter J. Limiting Volatile Organic Compound (VOC) Emissions from Reactor Processes and Distillation Operations in the Synthetic Organic Chemical Manufacturing Industry (SOCMI)

§2147. Limiting VOC Emissions from SOCMI Reactor Processes and Distillation Operations

[See Prior Text in A - D.2]

3. The following methods in 40 CFR Part 60, appendix A shall be used to demonstrate compliance with the emission limit or percent reduction efficiency requirement listed in Subsection C.1.a of this Section.

[See Prior Text in D.3.a - e]

4. When a flare is used to comply with the control requirements of this Subchapter, the flare shall comply with the requirements of 40 CFR 60.18.

[See Prior Text in D.5 - Figure 1]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:380 (April 1995), amended LR 22:1212 (December 1996), LR 24:

Subchapter N. Method 43—Capture Efficiency Test Procedures

§2156. Definitions

For purposes of this regulation, the following definitions and abbreviations apply:

BE—a building or room enclosure that contains a process that emits VOC. If a BE is to serve as a PTE or TTE, the appropriate requirements given in Procedure T (LAC 33:III.2160.F) must be met.

[See Prior Text]

PTE—a permanent total enclosure, which contains a process that emits VOC and meets the specifications given in Procedure T (LAC 33:III.2160.F).

TTE—a temporary total enclosure which is built around a process that emits VOC and meets the specifications given in Procedure T (LAC 33:III.2160.F).

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 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 24:

§2157. Applicability

A. The requirements of LAC 33:III.2158 shall apply to all regulated VOC emitting processes employing a control system except as provided below.

B. If a source installs a PTE that meets the requirements in Procedure T (LAC 33:III.2160.F), and which directs all VOC to a control device, the capture efficiency is assumed to be 100 percent, and the source is exempted from the requirements described in LAC 33:III.2158. This does not exempt a source from performance of any control device efficiency testing required under these or any other regulations. In addition, a source must demonstrate all criteria for a PTE are met during the testing for control efficiency.

[See Prior Text in C - C.3]

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 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 24:

§2158. Specific Requirements

[See Prior Text in A - C]

1. Gas/Gas Method Using TTE. The specifications to determine whether a temporary enclosure is considered a TTE are given in Procedure T (LAC 33:III.2160.F). The capture efficiency equation to be used for this protocol is:

$$CE = \frac{Gw}{(Gw + Fw)}$$

where:

CE = capture efficiency, decimal fraction.

Gw = mass of VOC captured and delivered to control device using a TTE.

Fw = mass of fugitive VOC that escapes from a TTE.

Procedure G.2 (LAC 33:III.2160.D) is used to obtain Gw. Procedure F.1 (LAC 33:III.2160.A) is used to obtain Fw.

2. Liquid/Gas Method Using TTE. The specifications to determine whether a temporary enclosure is considered a TTE are given in Procedure T (LAC 33:III.2160.F). The capture efficiency equation to be used for this protocol is:

$$CE = \frac{(L - F)}{L}$$

where:

CE = capture efficiency, decimal fraction.

L = mass of liquid VOC input to process.

F = mass of fugitive VOC that escapes from a TTE.

Procedure L (LAC 33:III.2160.E) is used to obtain L. Procedure F.1 (LAC 33:III.2160.A) is used to obtain F.

3. Gas/Gas Method Using the Building or Room (BE) in which the Affected Source is Located as the Enclosure and in which G and F are Measured while Operating only the Affected Facility. All fans and blowers in the building or room must be operated as they would under normal production. The capture efficiency equation to be used for this protocol is:

$$CE = \frac{G}{G + F_B}$$

where:

CE = capture efficiency, decimal fraction.

G = mass of VOC captured and delivered to a control device.

F_B = mass of fugitive VOC that escapes from building enclosure.

Procedure G.2 (LAC 33:III.2160.D) is used to obtain G. Procedure F.2 (LAC 33:III.2160.B) is used to obtain F_B.

4. Liquid/Gas Method Using the Building or Room (BE) in which the Affected Source is Located as the Enclosure and in which L and F are Measured while Operating only the Affected Facility. All fans and blowers in the building or room must be operated as they would under normal production. The capture efficiency equation to be used for this protocol is:

$$CE = \frac{(L - F_B)}{L}$$

where:

CE = capture efficiency, decimal fraction.

L = mass of liquid VOC input to process.

F_B = mass of fugitive VOC that escapes from building enclosure.

Procedure L (LAC 33:III.2160.E) is used to obtain L. Procedure F.2 (LAC 33:III.2160.B) is used to obtain F_B.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 24:

§2159. Recordkeeping and Reporting

[See Prior Text in A - C]

D. A source utilizing a PTE must demonstrate that this enclosure meets the requirement given in Procedure T (LAC 33:III.2160.F) for a PTE during any testing of a control device.

E. A source utilizing a TTE must demonstrate that its TTE meets the requirements given in Procedure T (LAC 33:III.2160.F) for a TTE during testing of their control device. The source must also provide documentation that the quality assurance criteria for a TTE have been achieved.

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 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 24:

§2160. Procedures

The following are Procedures F.1, F.2, G.1, G.2, L, and T to be used with the test protocols above:

[See Prior Text in A - A.2.b.iii]

c. Temporary Total Enclosure. The criteria for designing a TTE are discussed in Procedure T (Subsection F of this Section).

[See Prior Text in A.3 - A.4.c.i.(d)]

d. Alternative Procedure. The direct interface sampling and analysis procedure described in 40 CFR Part 60, appendix A, Method 18, 7.2-7.2.5 may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

[See Prior Text in A.5 - C.4.c.iv]

d. Alternative Procedure. The direct interface sampling and analysis procedure described in 40 CFR Part 60, appendix A, Method 18, 7.2-7.2.5 may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

[See Prior Text in C.5 - D.4.c.iv]

d. Alternative Procedure. The direct interface sampling and analysis procedure described in 40 CFR Part 60, appendix A, Method 18, 7.2-7.2.5 may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

[See Prior Text in D.5 - F.6.b.iii]

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 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 24:

Chapter 23. Control of Emissions for Specific Industries¹

Subchapter D. Nitric Acid Industry

§2307. Emission Standards for the Nitric Acid Industry

[See Prior Text in A - C.1]

a. A four-hour start-up exemption from emission regulations may be authorized by the administrative authority for plants not subject to 40 CFR Part 60, subpart G which have been shut down. It is recognized that existing nitrogen oxide abatement equipment is effective only at normal operating temperatures. This provision allows the necessary time to bring up a facility from a cold start to near steady state condition. A report in writing, explaining the conditions and

duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emissions, shall be submitted to the administrative authority within seven calendar days of the occurrence.

[See Prior Text in C.1.b - C.2]

a. A four-hour exemption from emission regulations may be extended by the administrative authority to plants not subject to 40 CFR Part 60, subpart G where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to the administrative authority within seven calendar days of the occurrence.

[See Prior Text in C.2.b - H.2]

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 24:

Chapter 25. Miscellaneous Incineration Rules

Subchapter B. Biomedical Waste Incinerators

§2511. Standards of Performance for Biomedical Waste

Incinerators

[See Prior Text in A - A.2]

B. Definitions. The words and terms used in this Subchapter are defined in LAC 33:III.Chapter 51, and LAC 33:III.111 and 40 CFR 60.2 unless otherwise specifically defined as follows:

[See Prior Text in B.Antineoplastic Agents - L]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1098 (October 1994), amended LR 21:1081 (October 1995), LR 22:1212 (December 1996), LR 24:

Subchapter D. Crematories

§2531. Standards of Performance for Crematories

[See Prior Text in A]

B. Definitions. Terms used in this Section are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined below as follows:

[See Prior Text]

Reconstruction—replacing, repairing, or upgrading equipment where the fixed capital cost of new components exceeds 50 percent of the fixed capital cost of a comparable entirely new source. Any final decision as to whether reconstruction has occurred must be made in accordance with the provisions of 40 CFR 60.14(f)1-3.

[See Prior Text in B.Type IV Waste - K.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1107 (October 1994), amended LR 22:1127 (November 1996), LR 22:1212 (December 1996), LR 24:

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference (IBR)

§3003. IBR 40 Code of Federal Regulations (CFR) Part 60

A. Except as modified in this Section, regulations at 40 CFR Part 60 as revised July 1, 1996, and specified below in Tables 1 and 1.A are hereby incorporated by reference as they apply to the state of Louisiana.

Table 1. 40 CFR Part 60	
40 CFR Part 60 Subpart	Subpart Heading
*** [See Prior Text in A - Ca]	
Cb	Emission Guidelines and Compliance Times for Municipal Waste Combustors that are Constructed on or before December 19, 1995
Cc	Emission Guidelines and Compliance Times for Municipal Solid Waste Landfill
Cd	Emission Guidelines and Compliance Times for Sulfuric Acid Production Units
*** [See Prior Text in D - E]	
Ea	Standards of Performance for Municipal Waste Combustors for which Construction is Commenced after December 20, 1989, and on or before September 20, 1994
Eb	Standards of Performance for Municipal Waste Combustors for which Construction is Commenced after September 20, 1994
*** [See Prior Text in F - H]	
I	Standards of Performance for Hot Mix Asphalt Facilities
*** [See Prior Text in J - SS]	
TT	Standards of Performance for Metal Call Surface Coating
*** [See Prior Text in UU - EEE]	
FFF	Standards of Performance for Flexible Vinyl and Urethane Coating and Printing
*** [See Prior Text in GGG - RRR]	
SSS	Standards of Performance for Magnetic Tape Coating Facilities
*** [See Prior Text in TTT - VVV]	
WWW	Standards of Performance for Municipal Solid Waste Landfills

[See Prior Text in Table 1.A. 40 CFR Part 60 Appendices]

B. Final regulations published in *Federal Registers* from July 2, 1996, through June 30, 1997 and September 15, 1997, and specified below in Table 2, are hereby incorporated by reference as they apply to the state of Louisiana.

Table 2. 40 CFR Part 60			
40 CFR Part 60 Subpart/Appendix	Subpart Heading/Appendix	Federal Register Citation	Date Promulgated
Subpart A	General Provisions	62 FR 8328	February 24, 1997
Subpart X	Standards of Performance for the Phosphate Fertilizer Industry; Granular Triple Superphosphate Storage Facilities	62 FR 18280	April 15, 1997
Subpart OOO	Standards of Performance for Nonmetallic Mineral Processing Plants; Amendments	62 FR 31359	June 9, 1997
Subpart A	General Provisions	62 FR 48379	September 15, 1997
Subpart Ce	Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators	62 FR 48379	September 15, 1997
Subpart Ec	Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for which Construction is Commenced after June 20, 1996	62 FR 48382	September 15, 1997

[See Prior Text in C - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 24:

A public hearing will be held on November 24, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ161*. Such comments must be received no later than November 24, 1997,

at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. The comment period for this rule ends on the same date as the public hearing.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen
Assistant Secretary

9710#112

NOTICE OF INTENT

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

Emission Standard for Asbestos
(LAC 33:III.5151)(AQ163)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.5151.J.1 (AQ163).

This rule revision will require the regulated community to follow methods and procedures to prevent emissions to the outside air from the handling of asbestos-containing waste material. The department originally promulgated the rule essentially verbatim from the federal *Asbestos NESHAP Standard*. However, there is an inherent weakness in the logic of the rule, in that the regulated community has the option of discharging no visible emission or implementing some emission control procedures to prevent emissions, but if emission control procedures are not followed, there will be emissions. The emission control procedures, specifically LAC 33:III.5151.J.1.a, are the industry standard for controlling emissions. The basis and rationale for this rule are to eliminate the contradictory language so that the *Asbestos NESHAP Standard* and LAC 33:III.5151.J.1 are consistent.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33 ENVIRONMENTAL QUALITY Part III. Air

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter M. Asbestos

§5151. Emission Standard for Asbestos

[See Prior Text in A-J]

1. Discharge no visible emissions to the outside air during collection, processing (including incineration), packaging, or transporting or deposition of any asbestos-containing waste material generated by the source, and use one of the emission control and waste treatment methods specified in §5151.J.1.a-d.

[See Prior Text in J.1.a-P.2.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), repealed and repromulgated in LR 18:1121 (October 1992), amended LR 20:1277 (November 1994), LR 23:

A public hearing will be held on November 24, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ163. Such comments must be received no later than December 1, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.:

7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810;
804 Thirty-first Street, Monroe, LA 71203;
State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101;
3519 Patrick Street, Lake Charles, LA 70605;
3501 Chateau Boulevard West Wing, Kenner, LA 70065;
100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or
on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Emission Standard for Asbestos

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs to state or local governmental units.

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

There will be no effect on revenue collections to state or local governmental units.

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

There will be no costs to affected persons or nongovernmental groups. The practices required under the regulation and the proposed revision are already the industry standard.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Gus Von Bodungen
Assistant Secretary
9710#106

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary**

**Credit for Recycling Equipment
(LAC 33:VII.10407)(OS024)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste Division regulations, LAC 33:VII.10407 (OS024).

The proposed rule will amend the tax credit for qualified recycling equipment to define costs allowed under the recycling credit program to include installation costs. This action is required to clarify that installation costs are included for recycling credit. The basis and rationale for this rule are to provide incentives for recycling nonhazardous solid waste by offering the credit for the recycling equipment program mandated in R.S. 47:6005.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 2. Recycling

**Chapter 104. Credit for Recycling Equipment
§10407. Technical Specifications for Qualified
Recycling Equipment**

* * *

[See Prior Text in A - A.3]

B. The following categories of equipment will be excluded from certification as qualified recycling equipment:

1. vehicles as defined in LAC 33:VII.10405;

2. in-kind replacement of parts for machinery or apparatus;

3. structures, machinery, equipment, or devices used to store or incinerate waste materials; and

4. used equipment.

C. The department shall determine the costs to obtain and construct the qualified equipment that may be allowed for the credit. When the equipment is built from components and assembled at the installation site or a site separate from the installation site, and subsequently transported and installed at the installation site, the costs of the components, the costs to assemble the components, and the costs to install the components shall be considered the allowed costs.

D. The costs of material and labor to construct a building or other structure necessary to support the equipment or to protect the equipment and operators from the elements while they operate the equipment shall be allowed costs, provided that the building or structure is used exclusively in connection with the recycling operations.

E. Under no circumstances shall any of the following be considered allowed costs:

1. financial charges;

2. the costs of acquiring land or rights in land and any costs incidental thereto, including recording fees; and

3. the costs to construct a building or structure to store raw material or finished products.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), amended LR 24:

A public hearing will be held on November 24, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS024. Such comments must be received no later than December 1, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.:

7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810;
804 Thirty-First Street, Monroe, LA 71203;
State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101;
3519 Patrick Street, Lake Charles, LA 70605;
3501 Chateau Boulevard West Wing, Kenner, LA 70065;
100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or
on the Internet at <http://www.deq.state.la.us/olae/irdd/olaereg.htm>.

Herman Robinson
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Credit for Recycling Equipment**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs anticipated for either state or local governmental units as a result of the proposed revisions to the Recycling Equipment Tax Credit Rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule change is anticipated to increase the value of tax credits received for the purchase of qualified recycling equipment which will ultimately reduce the revenue generated by the imposition of the state's income and corporation franchise taxes. This proposed rule would expand what is calculated as eligible for credit to include installation costs of recycling equipment. This would broaden what is eligible for credit relative to what is explicitly provided under R.S. 47:6005. The increase in the value of allowable credits resulting from this change cannot be accurately determined; but is likely to be significant.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Businesses that receive credit for the purchase and installation of eligible recycling equipment would benefit from this rule change because the potential value of recycling equipment purchases which are eligible to receive a credit against income and corporation franchise taxes will increase by the amount of installation costs which this proposed rule would include as eligible for credit. The increase in the value of allowable credits resulting from this change cannot be accurately determined; but is likely to be significant.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no estimated effect on competition or employment to facilities or individuals within the state.

L. Hall Bohlinger
Deputy Secretary
9710#104

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary**

Reportable Quantity List (LAC 33:I.3931) (OS023*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.3931 (OS023*).

This proposed rule is identical to a federal law or regulation, 60 CFR 30926-30962, Number 112, 6/12/95, and 61 CFR 20473-20490, Number 89, 5/7/96, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the

proposed rule. Therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4). This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

The Reportable Quantity List for Pollutants will be amended to include an additional 361 compounds and to adjust the reporting threshold for 81 compounds. The amendments will make the state list more consistent with the federal EPA lists. The basis and rationale for this proposed rule are to ensure the Reportable Quantity List for Pollutants in Louisiana is equivalent to the EPA reportable quantity lists, as amended in June 1995 and May 1996. If it were necessary for federal and state reportable quantity lists to be checked and compared whenever there is a release, confusion and delays could worsen an emergency condition.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 2. Notification Regulations

**Chapter 39. Notification Regulations and Procedures
for Unauthorized Discharges**

**Subchapter E. Reportable Quantities for Notification
of Unauthorized Discharges**

§3931. Reportable Quantity List for Pollutants

Pollutant	CAS Number ¹	RCRA ² Waste Number	Pounds
*** [See Prior Text]			
Acetic acid, lead (2+) salt	301042	U144	10
*** [See Prior Text]			
Acetone cyanohydrin	75865	P069	10
Acetone thiosemicarbazide	1752-30-3		1000
Acetonitrile	75058	U003	5000
3-(Alpha- acetonilybenzyl)-4-Hydroxycoumarin and Salts	81-81-2		.100
Acetophenone	98862	U004	5000
*** [See Prior Text]			
Acrylonitrile	107131	U009	100
Acrylyl Chloride	814-68-6		100
Adipic acid	124049		5000
Adiponitrile	111-69-3		1000
Aldicarb	116063	P070	1
*** [See Prior Text]			
Allyl chloride	107051		1000/ 10@
Allylamine	107-11-9		500
Aluminum phosphide	20859738	P006	100

Aluminum sulfate	10043013		5000
Aminobiphenyl	92-67-1		1
5-(Aminomethyl)3-isoxazolol	2753964	P007	1000
Aminopterin	54-62-6		500
4-Aminopyridine	504245	P008	1000
Amiton	78-53-5		500
Amiton Oxalate	3734-97-2		100
Amitrole	61825	U011	10
*** [See Prior Text]			
Ammonium vanadate	7803556	P119	1000
Amphetamine	300-62-9		1000
Amyl acetate	628637		5000
iso-	123922		5000
sec-	626380		5000
tert-	625161		5000
Aniline	62533	U012	5000/ 1000@
Aniline, 2,4,6-trimethyl-	88-05-1		500
o-anisidine	90-04-0		100
Anthracene	120127		5000
*** [See Prior Text]			
Antimony pentachloride	7647189		1000
Antimony pentafluoride	7783-70-2		500
Antimony potassium tartrate	28300745		100
*** [See Prior Text]			
Antimony trioxide	1309644		1000
Antimycin A	1397-94-0		1000
ANTU	86-88-4		100
Argentate(1-), bis(cyano-C)-, potassium	506616	P099	1
*** [See Prior Text]			
Aroclor 1260	11096825		1
Aroclors	1336-36-3		1
Arsenic ³	7440382		1
*** [See Prior Text]			
Arsenic trisulfide	1303339		1
Arsenous oxide	1327-53-3		1
Arsenous trichloride	7784-34-1		1
Arsine	7784-42-1		100
Arsine, diethyl-	692422	P038	1

*** [See Prior Text]			
Azaserine	115026	U015	1
1H-azepine-1-carbothioic acid, hexahydro-,s-ethyl ester (molinate)	2212-67-1		1
Azinphos-ethyl	2642-71-9		100
Azinphos-methyl	86-50-0		1
Aziridine	151564	P054	1
*** [See Prior Text]			
Benzenamine, 4-nitro-	100016	P077	5000
Benzenamine, 3-(trifluoromethyl)-	98-16-8		500
Benzene	71432	U019	10
Benzenecetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-, ethyl ester	510156	U038	10
Benzenearsonic acid	98-05-5		10
Benzene, 1-bromo-4-phenoxy-	101553	U030	100
*** [See Prior Text]			
Benzene, chloromethyl-	100447	P028	100
Benzene, 1-(chloromethyl)-4-nitro	100-14-1		500
Benzenediamine, ar-methyl-	95807 496720 823405 25376-45-8	U221	10
1,2-Benzenedicarboxylic acid, dioctyl ester	117840	U107	5000
*** [See Prior Text]			
Benzene, 1,4-dichloro-	106467	U072	100
1,2-Benzene, 1,1'-(2,2-dichloro-ethylidene) bis[4-chloro-	72548	U060	1
Benzene, dichloromethyl-	98873	U017	5000
Benzene, 1,3-diisocyanatomethyl-	91087 584849 26471625	U223	100
Benzene, dimethyl	1330207	U239	100
m-Xylene	108383		1000
o-Xylene	95476		1000
p-Xylene	106423		100
1,3-Benzenediol	108463	U201	5000
1,2-Benzenediol,4-[1-hydroxy-2-(methylamino)ethyl]-	51434	P042	1000
Benzenethanamine, 1, 1-dimethyl-	122098	P046	5000
Benzene, hexachloro-	118741	U127	10
*** [See Prior Text]			
Benzidine	92875	U021	1

Benzimidazole, 4,5-dichloro-2-(trifluoromethyl)-	3615-21-2		500
1,2-Benzisothiazol-3(2H)-one,1,1-dioxide	81072	U202	100
*** [See Prior Text]			
Benzo[j,k]fluorene	206440	U120	100
1,3-Benzodioxol-4-ol, 2,2-dimethyl-, (bendiocarb phenol)	22961-82-6		1
1,3-Benzodioxol-4-ol, 2,2-dimethyl-, methyl carbamate (bendiocarb)	22781-23-3		1
1,3-Benzodioxole, 5-(1-propenyl)-	120581	U141	100
1,3-Benzodioxole, 5-(2-propenyl)-	94597	U203	100
1,3-Benzodioxole, 5-propyl-	94586	U090	10
7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-(carbofuran phenol)	1563-38-8		1
Benzoic acid	65850		5000
Benzoic acid, 2-hydroxy-, compd. with (3AS-CIS)-1,2,3,3A,8,8A-hexahydro-1,3A,8-trimethylpyrrolo(2,3-b)indol-5-yl methylcarbamate ester (1:1) (physostigmine salicylate)	57-64-7		1
Benzonitrile	100470		5000
*** [See Prior Text]			
Benzylchloride	100447	P028	100
Benzylcyanide	140-29-4		500
Beryllium	7440417	P015	10
*** [See Prior Text]			
gamma-BHC	58899	U129	1
Bicyclo(2,2,1)heptane-2-carbonitrile, 5-chloro-6-(((methylamino)carbonyl)oxy)imino)-, (1s-(1-alpha,2-beta,4-alpha,5-alpha,6e))-	15271-41-7		500
2,2'-Bioxirane	1464535	U085	10
*** [See Prior Text]			
Bis(2-ethylhexyl)phthalate	117817	U028	100
Bis(chloromethyl)ketone	534-07-6		10
Bis(dimethylthiocarbonyl) sulfide (tetramethylthiuram monosulfide)	97-74-5		1
Bitoscanate	4044-65-9		500
Borontrichloride	10294-34-5		500
Borontrifluoride	7637-07-2		500
Borontrifluoride compound with methylether (1:1)	353-42-4		1000
Bromadiolone	28772-56-7		100

Bromine	7726-95-6		500
Bromine cyanide	506683	U246	1000
*** [See Prior Text]			
Butylacetate	123864		5000
iso-	110190		5000
sec-	105464		5000
tert-	540885		5000
n-Butylalcohol	71363	U031	5000/ 1000@
Butylamine	109739		1000
iso-	78819		1000
sec-	513495		1000
sec-	13952846		1000
tert-	75649		1000
*** [See Prior Text]			
Butyric acid	107926		5000
iso-	79312		5000
*** [See Prior Text]			
Cadmium chloride	10108642		10
Cadmium oxide	1306-19-0		100
Cadmium stearate	2223-93-0		1000
Calcium arsenate	7778441		1
*** [See Prior Text]			
Calcium chromate	13765190	U032	10
Calcium cyanamide	156-62-7		1000
Calcium cyanide Ca(CN) ₂	592018	P021	10
*** [See Prior Text]			
Calcium hypochlorite	7778543		10
Campechlor	8001-35-2		1
Camphene, octachloro-	8001352	P123	1
Cantharidin	56-25-7		100
Caprolactam	105-60-2		5000
Captan	133062		10
Carbachol chloride	51-83-2		500
Carbamic acid, butyl-, 3-iodo-2-propynylester (3-iodo-2-propynyl n-butylcarbamate)	55406-53-6		1
Carbamic acid, [1-[(butylamino)carbonyl]-1h-benzimidazol-2-yl, methyl ester (benomyll)]	17804-35-2		1
Carbamic acid, 1h-benzimidazol-2-yl, methyl ester (carbendazim)	10605-21-7		1

Carbamic acid, (3-chlorophenyl)-, 4-chloro-2-butynylester (barban)	101-27-9		1
Carbamic acid, [(dibutylamino)thio]methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranylester (carbosulfan)	55285-14-8		1
Carbamic acid, dimethyl-, 1-[[dimethylamino]carbonyl]-5-methyl-1h-pyrazol-3-ylester (dimetilán)	644-64-4		1
Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1h-pyrazol-5-ylester (isolán)	119-38-0		1
Carbamic acid, ethylester	51796	U238	100
Carbamic acid, methyl-o-(((2,4-dimethyl-1,3-dithiolan-2-yl)methylene)amino)-	26419-73-8		1
Carbamic acid, methyl-, 3-methylphenylester (metolcarb)	1129-41-5		1
Carbamic acid, methylnitroso-, ethylester	615532	U178	1
Carbamic acid, [1,2-phenylenebis(iminocarbonothioyl)]bis-dimethylester (thiophanate-methyl)	23564-05-8		1
Carbamic acid, phenyl-, 1-methylethylester (propham)	122-42-9		1
Carbamic chloride, dimethyl-	79447	U097	1
Carbamodithioic acid, dibutyl, sodium salt (sodium dibutyl dithiocarbamate)	136-30-1		1
Carbamodithioic acid, diethyl-, 2-chloro-2-propenylester (sulfallate)	95-06-7		1
Carbamodithioic acid, diethyl-, sodium salt (sodium diethyl dithiocarbamate)	148-18-5		1
Carbamodithioic acid, dimethyl, potassium salt (potassium dimethyl dithiocarbamate)	128-03-0		1
Carbamodithioic acid, dimethyl-, sodium salt (sodium dimethyl dithiocarbamate)	128-04-1		1
Carbamodithioic acid, dimethyl-, tetraanhydrosulfidewith orthoioselenious acid (selenium, tetrakis (dimethyl dithiocarbamate))	144-34-3		1
Carbamodithioic acid, 1,2-ethanediybis, salt and esters	111546	U114	5000
Carbamodithioic acid, (hydroxymethyl)methyl-, monopotassium salt (potassium n-hydroxymethyl-n-methyl dithiocarbamate)	51026-28-9		1
Carbamodithioic acid, methyl-, monopotassium salt (potassium n-methyl dithiocarbamate)	137-41-7		1
Carbamodithioic acid, methyl-, monosodium salt (metamsodium)	137-42-8		1

Carbamide, thio-	62566	U129	1
*** [See Prior Text]			
Carbamothioic acid, bis(1-methylethyl)-, S-(2,3-dichloro-2-propenyl)ester	2303164	U062	100
Carbamothioic acid, bis(1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl)ester (triallate)	2303-17-5		1
Carbamothioic acid, bis(2-methylpropyl)-, S-ethylester (butylate)	2008-41-5		1
Carbamothioic acid, butylethyl-, S-propylester (pebulate)	1114-71-2		1
Carbamothioic acid, cyclohexylethyl-, S-ethylester (cycloate)	1134-23-2		1
Carbamothioic acid, dipropyl-, S-ethylester (eptc)	759-94-4		1
Carbamothioic acid, dipropyl-, S-(phenylmethyl)ester (pro sulfocarb)	52888-80-9		1
Carbamothioic acid, dipropyl-, S-propylester (vernolate)	1929-77-7		1
Carbaryl	63252		100
*** [See Prior Text]			
Carbonylsulfide	463581		100@
Carbophenothion	786-19-6		500
Catechol	120-80-9		100
Chloral	75876	U034	5000
Chloramben	133-90-4		100
Chlorambucil	305033	U035	10
*** [See Prior Text]			
Chlordane, alpha and gamma isomers	57749	U036	1
Chlorfenvinfos	470-90-6		500
Chlorinated camphene	8001-35-2		1
Chlorinated Dibenzo Furans, all isomers			1
*** [See Prior Text]			
Cyanogen chloride (CN)Cl	506774	P033	10
Chlormephos	24934-91-6		500
Chlormequatchloride	999-81-5		100
Chlornaphazine	494031	U026	100
Chloroacetaldehyde	107200	P023	1000
Chloroacetic acid	79-11-8		100
2-Chloroacetophenone	532-27-4		100
p-Chloroaniline	106748	P024	1000

*** [See Prior Text]			
Chloroethane	75003		100
Chloroethanol	107-07-3		500
Chloroethylchloroformate	627-11-2		1000
2-Chloroethylvinylether	110758	U042	1000
Chloroform	67663	U044	10
Chloromethylether	542-88-1		10
Chloromethylmethylether	107302	U046	10
beta-Chloronaphthalene	91587	U047	5000
2-Chloronaphthalene	91587	U047	5000
Chlorophacinone	3691-35-8		100
2-Chlorophenol	95578	U048	100
*** [See Prior Text]			
4-Chloro-o-toluidine, hydrochloride	3165933	U049	100
Chloroxuron	1982-47-4		500
Chlorpyrifos	2921882		1
Chlorthiophos	21923-23-9		500
Chromicacetate	1066304		1000
*** [See Prior Text]			
Chromicacid H ₂ CrO ₄ , calcium salt	13765190	U032	10
Chromicchloride	10025-73-7		1
Chromicsulfate	10101538		1000
*** [See Prior Text]			
Chrysene	218019	U050	100
Cobaltcarbonyl	10210-68-1		10
Cobalt, ((2,2'-(1,2-ethanediyl bis(nitrilomethylidyne))bis(6-fluorophenolato))(2-)-N,N',O,O')-	62207-76-5		100
Cobaltousbromide	7789437		1000
*** [See Prior Text]			
Coke ovenemissions			1
Colchicine	64-86-8		10
Coppercyanide CuCN	544923	P029	10
*** [See Prior Text]			
CopperCompounds	20086		100@
Copper, bis(dimethylcarbamodithioato-S,S')-(copper dimethyldithiocarbamate)	137-29-1		1
Coumaphos	56724		10
Coumatetralyl	5836-29-3		500

Creosote	8001589	U051	1
Cresol(s)	1319773	U052	100
m-Cresol	108394		100
o-Cresol	95487		100
p-Cresol	106445		100
Cresylicacid	1319773	U052	100
m-Cresylicacid	108394		100
o-Cresylicacid	95487		100
p-Cresylicacid	106445		100
Crimidine	535-89-7		100
Crotonaldehyde	123739 4170303	U053	100
*** [See Prior Text]			
Cyanogenchloride(CN)Cl	506774	P033	10
Cyanogeniodide	506-78-5		1000
Cyanophos	2636-26-2		1000
Cyanuricfluoride	675-14-9		100
2,5-Cyclohexadiene-1,4-dione	106514	U197	10
*** [See Prior Text]			
Cyclohexanone	108941	U057	5000
Cycloheximide	66-81-9		100
2-Cyclohexyl-4,6-dinitrophenol	131895	P034	100
Cyclohexylamine	108-91-8		10000
1,3-Cyclopentadiene,1,2,3,4,5,5-hexachloro-	77474	U130	10
*** [See Prior Text]			
4,4'DDT	50293	U061	1
Decaborane(14)	17702-41-9		500
DEHP	117-81-7		100
Demeton	8065-48-3		500
Demeton-s-methyl	919-86-8		500
Dialifor	10311-84-9		100
Diallate	2303164	U062	100
*** [See Prior Text]			
Diaminotoluene	25376458		10
Diazinon	333415		1
Diazomethane	334-88-3		100
Dibenz[a,h]anthracene	53703	U063	1
*** [See Prior Text]			
Dibenzo[a,h]anthracene	53703	U063	1

Dibenzofuran	132-64-9		100
Dibenz[a,i]pyrene	189559	U064	10
Diborane	19287-45-7		100
1,2-Dibromo-3-chloropropane	96128	U066	1
Dibromoethane	106-93-4		1
Dibutyl phthalate	84742	U069	10
*** [See Prior Text]			
Dichlorobromomethane	75274		5000
Trans-1,4-dichlorobutene	110-57-6		500
1,4-Dichloro-2-butene	764410	U074	1
*** [See Prior Text]			
Dichloroisopropylether	108601	U027	1000
Dichloromethane	75-09-2		1000
Dichloromethoxyethane	111911	U024	1000
Dichloromethylether	542881	P016	10
Dichloromethylphenylsilane	149-74-6		1000
2,4-Dichlorophenol	120832	U081	100
*** [See Prior Text]			
Dichloropropane	26638197		1000
1,1-dichloropropane	78-99-9		1000
1,2-Dichloropropane	78875	U083	1000
1,3-dichloropropane	142-28-9		1000
Dichloropropane-Dichloropropene (mixture)	8003198		100
*** [See Prior Text]			
Dicofol	115322		10
Dicrotophos	141-66-2		100
Dieldrin	60571	P037	1
1,2:3,4-Diepoxybutane	1464535	U085	10
Diethanolamine	111-42-2		100
Diethyl chlorophosphate	814-49-3		500
Diethylamine	109897		100
N,N-diethylaniline	91-66-7		1000
Diethylarsine	692422	P038	1
*** [See Prior Text]			
Diethylstilbestrol	56531	U089	1
Diethylsulfate	64-67-5		10
Digitoxin	71-63-6		100
Diglycidylether	2238-07-5		1000
Digoxin	20830-75-5		10

1,2-dihydro-3,6-pyridazinedione	123-33-1		5000
Dihydrosafrole	94586	U090	10
Diisopropyl fluorophosphate	55914	P043	100
Dimefox	115-26-4		500
1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-, (1alpha,4alpha,4abeta,5alpha,8alpha,8abeta)-	309002	P004	1
*** [See Prior Text]			
p-Dimethylaminoazobenzene	60117	U093	10
Dimethylaniline	121-69-7		100
7,12-Dimethylbenz[a]anthracene	57976	U094	1
*** [See Prior Text]			
Dimethylcarbamoylchloride	79447	U097	1
Dimethyldichlorosilane	75-78-5		500
Dimethylformamide	68-12-2		100
1,1-Dimethylhydrazine	57147	U098	10
*** [See Prior Text]			
2,4-Dimethylphenol	105679	U101	100
Dimethyl phosphorochloridothioate	2524-03-0		500
Dimethyl phthalate	131113	U102	5000
Dimethyl-p-phenylenediamine	99-98-9		10
Dimethylsulfate	77781	U103	100
Dimetilan	644-64-4		1
Dinitrobenzene(mixed)	25154545		100
m-Dinitrobenzene	99650		100
o-Dinitrobenzene	528290		100
p-Dinitrobenzene	10020754		100
4,6-Dinitro-o-cresolandsalts	534521	P047	10
Dinitrophenol	25550587		10
2,5-Dinitrophenol	329715		10
2,6-Dinitrophenol	573568		10
2,4-Dinitrophenol	51285	P048	10
Dinitrotoluene	25321146		10
2,4-Dinitrotoluene	121142	U105	10
2,6-Dinitrotoluene	606202	U106	100
3,4-Dinitrotoluene	610-39-9		10
Dinoseb	88857	P020	1000
Dinoterb	1420-07-1		500
Di-n-octyl phthalate	117840	U107	5000

1,4-Dioxane	123911	U108	100
Dioxathion	78-34-2		500
Diphacinone	82-66-6		10
1,2-Diphenylhydrazine	122667	U109	10
*** [See Prior Text]			
Disulfoton	298044	P039	1
Dithiazanine iodide	514-73-8		500
Dithiobiuret	541537	P049	100
1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, o- [(methylamino)carbonyl]oxime (tirpate)	26419-73-8		1
Diuron	330541		100
Dodecylbenzenesulfonicacid	27176870		1000
Emetine, dihydrochloride	316-42-7		1
Endosulfan	115297	P050	1
*** [See Prior Text]			
Endothall	145733	P088	1000
Endothion	2778-04-3		500
Endrin aldehyde	7421934		1
*** [See Prior Text]			
Epinephrine	51434	P042	1000
EPN	2104-64-5		100
1,2-Epoxybutane	106-88-7		100
Ergocalciferol	50-14-6		1000
Ergotamine tartrate	379-79-3		500
Ethanal	75070	U001	1000
*** [See Prior Text]			
Ethane, pentachloro-	76017	U184	10
Ethanesulfonylchloride, 2-chloro-	1622-32-8		500
Ethane, 1,1,1,2-tetrachloro-	630206	U208	100
*** [See Prior Text]			
Ethane, 1,1,2-trichloro-	79005	U227	100
Ethanimidothioicacid, 2-(dimethylamino)-n-hydroxy-2-oxo-, methyl ester (A2213)	30558-43-1		1
Ethanimidothioicacid, 2-(dimethylamino)-n- [[[(methylamino)carbonyl]oxy]-2-oxo-, methyl ester (oxamyl)	23135-22-0		1
Ethanimidothioicacid, N- [[[(methyl-N-amino)carbonyl]oxy]-, methyl ester	16752775	P066	100

Ethanimidothioicacid, N,N'-(thiobis[(methylimino)carbonyloxy]]bis-, dimethylester (thiodicarb)	59669-26-0		1
Ethanol, 1,2-dichloro-, acetate	10140-87-1		1000
Ethanol, 2-ethoxy-	110805	U359	1000
Ethanol, 2,2'-oxybis-, dicarbamate (diethylene glycol, dicarbamate)	5952-26-1		1
1,2-Ethanediamine, N,N-dimethyl-N'2-pyridinyl-N'-(2-thienylmethyl)-	91805	U155	5000
*** [See Prior Text]			
Ethion	563122		10
Ethoprophos	13194-48-4		1000
Ethyl acetate	141786	U112	5000
*** [See Prior Text]			
Ethylbenzene	100414		1000
Ethylbis(2-chloroethyl)amine	538-07-8		500
Ethyl carbamate (urethane)	51796	U238	100
Ethyl chloride	75-00-3		100
Ethyl cyanide	107120	P101	10
*** [See Prior Text]			
Ethylene dichloride	107062	U077	100
Ethylene fluorohydrin	371-62-0		10
Ethylene glycol	107211		5000@
*** [See Prior Text]			
Ethyl methanesulfonate	62500	U119	1
Ethylthiocyanate	542-90-5		10000
Famphur	52857	P097	1000
Fenamiphos	22224-92-6		10
Fensulfothion	115-90-2		500
Ferric ammonium citrate	1185575		1000
*** [See Prior Text]			
Ferrous sulfate	7720787 7782630		1000
Fluenetil	4301-50-2		100
Flouranthene	206440	U120	100
*** [See Prior Text]			
Fluoroacetic acid, sodium salt	62748	P058	10
Fluoroacetylchloride	359-06-8		10
Fluorouracil	51-21-8		500
Fonofos	944-22-9		500

Formaldehyde	50000	U122	100
Formaldehydecyanohydrin	107-16-4		1000
Formetanate hydrochloride	23422-53-9		1
Formic acid	64186	U123	5000
Formothion	2540-82-1		100
Formparanate	17702-57-7		1
Fosthietan	21548-32-3		500
Fuberidazole	3878-19-1		100
Fulminic acid, mercury (2+) salt	628864	P065	10
*** [See Prior Text]			
Furfuran	110009	U124	100
Gallium trichloride	13450-90-3		500
Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-	18883664	U206	1
*** [See Prior Text]			
Hexachloro-1,3-butadiene	87683	U128	1
*** [See Prior Text]			
Hexachlorobutadiene	87683	U128	1
Hexachlorocyclohexane(all isomers)	608-73-1		1
Hexachlorocyclohexane(gamma isomer)	58899	U129	1
*** [See Prior Text]			
Hexaethyltetraphosphate	757584	P062	100
Hexamethylene-1,6-diisocyanate	822-06-0		100
Hexamethylenediamine, N,N'-dibutyl-	4835-11-4		500
Hexamethylphosphoramide	680-31-9		1
Hexane	110543		1000@
Hexone	108-10-1		5000
Hydrazine	302012	U133	1
*** [See Prior Text]			
Hydrogen fluoride	7664393	U134	100/ 10@
Hydrogen peroxide (conc. greater than 52 percent)	7722-84-1		1000
Hydrogen phosphide	7803512	P096	100
Hydrogen selenide	7783-07-5		10
Hydrogen sulfide H ₂ S	7783064	U135	100
Hydroperoxide, 1-methyl-1-phenylethyl-	80159	U096	10
Hydroquinone	123-31-9		100
Hydrosulfuric acid	7783064	U135	100

*** [See Prior Text]			
Indeno(1,2,3-cd)pyrene	193395	U137	100
Iodomethane	74-88-4		100
Iron pentacarbonyl	13463-40-6		100
Iron, tris(dimethylcarbamodithioato-S,S')-(ferbam)	14484-64-1		1
Isobenzan	297-78-9		100
1,3-Isobenzofurandione	85449	U190	5000/ 1000@
Isobutyl alcohol	78831	U140	5000
Isobutyronitrile	78-82-0		1000
Isocyanic acid, 3,4-dichlorophenyl ester	102-36-3		500
Isodrin	465736	P060	1
Isofluorophate	55-91-4		100
Isophorone	78591		5000
Isophorone diisocyanate	4098-71-9		100
Isoprene	78795		100
Isopropanolamine dodecylbenzenesulfonate	42504461		1000
Isopropylchloroformate	108-23-6		1000
Isopropylmethylpyrazolyl dimethylcarbamate	119-38-0		1
Isosafrole	120581	U141	100
*** [See Prior Text]			
Kepon	143500	U142	1
Lactonitrile	78-97-7		1000
Lasiocarpine	303344	U143	10
Lead ³	7439921		10
Lead acetate	301042	U144	10
*** [See Prior Text]			
Lead, bis(acetate-O-)-tetrahydroxytri	1335326	U146	10
Lead chloride	7758954		10
Lead fluoborate	13814965		10
Lead fluoride	7783462		10
Lead iodide	10101630		10
Lead nitrate	10099748		10
Lead phosphate	7446277	U145	10
Lead stearate	7428480 1072351 52652592 56189094		10
Lead subacetate	1335326	U146	10

Lead sulfate	15739807 7446142		10
Lead sulfide	1314870		10
Lead thiocyanate	592870		10
Leptophos	21609-90-5		500
Lewisite	541-25-3		10
Lindane	58899	U129	1
Lithium chromate	14307358		10
Lithium hydride	7580-67-8		100
Malathion	121755		100
*** [See Prior Text]			
Manganese compounds			100@
Manganese, bis(dimethylcarbamo-dithioato-S,S')-(manganese dimethyl-dithiocarbamate)	15339-36-3		1
Manganese, tricarbonyl methylcyclopentadienyl	12108-13-3		100
MDI	101-68-8		5000
Mechlorethamine	51-75-2		10
Melphalan	148823	U150	1
Mepfosfolan	950-10-7		500
Mercaptodimethur	2032657		10
Mercuric acetate	1600-27-7		500
Mercuric chloride	7487-94-7		500
Mercuric cyanide	592041		1
Mercuric nitrate	10045940		10
Mercuric oxide	21908-53-2		500
Mercuric sulfate	7783359		10
*** [See Prior Text]			
Mercury fulminate	628864	P065	10
Methacrolein diacetate	10476-95-6		1000
Methacrylic anhydride	760-93-0		500
Methacrylonitrile	126987	U152	1000
Methacryloyl chloride	920-46-7		100
Methacryloyloxyethylisocyanate	30674-80-7		100
Methamidophos	10265-92-6		100
Methanamine, N-methyl-	124403	U092	1000
*** [See Prior Text]			
Methane, isocyanato-	624839	P064	10
*** [See Prior Text]			
Methanesulfonic acid, ethylester	62500	U119	1

Methanesulfonyl fluoride	558-25-8		1000
Methane, tetrachloro-	56235	U211	10
*** [See Prior Text]			
Methanethiol	74931	U153	100/ 1@
Methanimidamide, N,N-dimethyl-N'-[2-methyl-4-[[[(methylamino)carbonyl]oxy]phenyl]]-(formparanate)	17702-57-7		1
Methanimidamide, N,N-dimethyl-N'-[3-[[[(methylamino)carbonyl]oxy]phenyl]]-, monohydrochloride (formetanate hydrochloride)	23422-53-9		1
6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-,3-oxide	115297	P050	1
*** [See Prior Text]			
Methapyrilene	91805	U155	5000
Methidathion	950-37-8		500
Methiocarb	2032-65-7		10
Methomyl	16752775	P066	100
Methoxychlor	72435	U247	1
Methoxyethylmercuricacetate	151-38-2		500
Methylacrylate	96333		10@
Methylalcohol	67561	U154	5000
2-Methylaziridine	75-55-8		1
Methyl bromide	74839	U029	1000
*** [See Prior Text]			
Methyl chloride	74873	U045	100
Methyl 2-chloroacrylate	80-63-7		500
Methyl chlorocarbonate	79221	U156	1000
*** [See Prior Text]			
Methylene chloride	75092	U080	1000
4,4'-Methylenedianiline	101-77-9		10
Methylene oxide	10000	U122	1000
*** [See Prior Text]			
Methylisocyanate	624839	P064	10
Methylisothiocyanate	556-61-6		500
2-Methyl lactonitrile	75865	P069	10
Methylmercaptan	74931	U153	100/ 1@
Methylmercuric dicyanamide	502-39-6		500

Methylmethacrylate	80626	U162	1000/ 100@
Methylparathion	298000	P071	100
Methylphenkapton	3735-23-7		500
4-Methyl-2-pentanone	108101	U161	5000/ 1000@
Methylphosphonicdichloride	676-97-1		100
Methylene diphenylisocyanate	101688		1000@
Methyltert-butylether	1634-04-4		1000
Methylthiocyanate	556-64-9		10000
Methylthiouracil	56042	U164	10
Methyltrichlorosilane	75-79-6		500
Methylvinylketone	78-94-4		10
Metolcarb	1129-41-5		1
Mevinphos	7786347		10
*** [See Prior Text]			
MNNG	70257	U163	10
Monocrotophos	6923-22-4		10
Monoethylamine	75047		100
*** [See Prior Text]			
Muscimol	2763964	P007	1000
Mustard gas	505-60-2		500
Naled	300765		10
*** [See Prior Text]			
2-Naphthylamine, N,N'-bis(2-chloroethyl)-	494031	U026	100
*** [See Prior Text]			
Nicotine and salts	54115	P075	100
Nicotinesulfate	65-30-5		100
Nitric acid	7697372		1000/ 100@
*** [See Prior Text]			
p-Nitroaniline	100016	P077	5000
Nitrobenzene	98953	U169	1000
4-Nitrobiphenyl	92-93-3		10
Nitrocyclohexane	1122-60-7		500
Nitrogen dioxide	10102440 10544726	P078	10
*** [See Prior Text]			
m-Nitrophenol	554847		100
*** [See Prior Text]			

N-Nitrosomethylvinylamine	4549400	P084	10
N-nitrosomorpholine	59-89-2		1
N-Nitrosopiperidine	100754	U179	10
*** [See Prior Text]			
Nitrotoluene	1321126		1000
M-nitrotoluene	99-08-1		1000
O-nitrotoluene	88-72-2		1000
P-nitrotoluene	99-99-0		1000
5-Nitro-o-toluidine	99558	U181	100
Norbormide	991-42-4		100
Octachlorodibenzo-p-dioxin(OCDD)	3268879		1
*** [See Prior Text]			
Oil			1 barrel
Organorhodiumcomplex	PMN82147		10
Osmium oxide OsO4 (T-4)	20816120	P087	1000
Osmium tetroxide	20816120	P087	1000
Other VOCs not listed (each VOC)			5000
Ouabain	630-60-4		100
7-Oxabicyclo[2.2.1]heptane-2,3-di carboxylic acid	145733	P088	1000
Oxamyl	23135-22-0		1
1,2-Oxathiolane,2,2-dioxide	1120714	U193	10
2H-1,3,2-Oxazaphosphorin-2- amine,N,N-bis(2-chloro- ethyl)tetrahydro-2-oxide	50180	U058	10
Oxetane, 3,3-bis(chloromethyl)	78-71-7		500
Oxirane	75218	U115	10
*** [See Prior Text]			
Oxirane (chloromethyl)	106898	U041	100
Oxydisulfoton	2497-07-6		500
Ozone	10028-15-6		100
Paraformaldehyde	30525894		1000
Paraldehyde	123637	U182	1000
Paraquat dichloride	1910-42-5		10
Paraquat methosulfate	2074-50-2		10
Parathion	56382	P089	10
Parathion-methyl	298-00-0		100
Paris green	12002-03-8		1
PCBs	1336-36-3		1
Pentaborane	19624-22-7		500
Pentachlorobenzene	608935	U183	10

*** [See Prior Text]			
Pentachlorophenol	87865	U242	10
Pentadecylamine	2570-26-5		100
1,3-Pentadiene	504609	U186	100
Peracetic acid	79-21-0		500
Perchloroethylene	127184	U210	100
Perchloromethylmercaptan	594-42-3		100
Phenacetin	62442	U187	100
*** [See Prior Text]			
Phenol, methyl	1319773	U052	100
*** [See Prior Text]			
Phenol, 2,2'-methylenebis[3,4,6-trichloro-	70304	U132	100
Phenol, 3-(1-methylethyl)-, methylcarbamate	64-00-6		1
Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate (promecarb)	2631-37-0		1
Phenol, 2-(1-methylpropyl)-4,6-dinitro	88857	P020	1000
*** [See Prior Text]			
Phenol, 2,3,4,6-tetrachloro-	58902	U212	10
Phenol, 2,2'-thiobis(4-chloro-6-methyl-	4418-66-0		100
Phenol, 2,4,5-trichloro-	95954	U230	10
*** [See Prior Text]			
Phenol, 2,4,6-trinitro-, ammonium salt	131748	P009	10
Phenoxarsine, 10, 10'-oxydi	58-36-6		500
L-Phenylalanine, 4-[bis(2-chloroethyl)aminol]	148823	U150	1
Phenyl dichloroarsine	696-28-6		1
P-phenylenediamine	106-50-3		5000
1,10-(1,2-Phenylene)pyrene	193395	U137	100
Phenylhydrazinehydrochloride	59-88-1		1000
Phenylmercuryacetate	62384	P092	100
Phenylsilatrane	2097-19-0		100
Phenylthiourea	103855	P093	100
Phorate	298022	P094	10
Phosacetim	4104-14-7		100
Phosfolan	947-02-4		100
Phosgene	75445	P095	10
Phosmet	732-11-6		10

Phosphamidon	13171-21-6		100
Phosphine	7803512	P096	100
Phosphonothioic acid, methyl-, 0-(4-nitrophenyl) o-phenylester	2665-30-7		500
Phosphonothioic acid, methyl-, 0-ethyl 0-(4-(methylthio)phenyl)ester	2703-13-1		500
Phosphonothioic acid, methyl-, S-(2-(bis(1-methylethyl)amino)ethyl) o-ethylester	50782-69-9		100
Phosphoric acid	7664382		5000
Phosphoric acid, diethyl 4-nitrophenylester	311455	P041	100
Phosphoric acid, dimethyl 4-(methylthio)phenylester	3254-63-5		500
Phosphoric acid, lead (2+) salt (2:3)	7446277	U145	10
*** [See Prior Text]			
Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl)ester	298000	P071	100
Phosphorothioic acid, O,O-dimethyl-S-2-methylthio)ethyl ester	2587-90-8		500
Phosphorothioic acid, O,O-diethyl O-pyrazinylester	297972	P040	100
*** [See Prior Text]			
Phosphorusoxychloride	10025873		1000
Phosphoruspentachloride	10026-13-8		500
Phosphoruspentasulfide	1314803	U189	100
*** [See Prior Text]			
Phthalic anhydride	85449	U190	5000/ 1000@
Physostigmine	57-47-6		1
Physostigmine, salicylate(1:1)	57-64-7		1
2-Picoline	109068	U191	5000
Picrotoxin	124-87-8		500
Piperidine	110-89-4		1000
Piperidine, n-nitroso-	100754	U179	10
Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis-(bis(pentamethylene)thiuram tetrasulfide)	120-54-7		1
Pirimipos-ethyl	23505-41-1		1000
Plumbane, tetraethyl-	78002	P110	10
*** [See Prior Text]			
Produced water			1 barrel
Promecarb	2631-37-0		1
Pronamide	23950585	U192	5000

Propanal, 2-methyl-2-(methylsulfonyl)-, o-[(methylamino)carbonyl]oxime (aldicarb sulfone)	1646-88-4		1
Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl] oxime	116063	P070	1
*** [See Prior Text]			
Propane, 2,2'-oxybis[2-chloro-	108601	U027	1000
1,3-propanesultone	1120-71-4		10
1,2,3-Propanetriol, trinitrate-	55630	P081	10
*** [See Prior Text]			
Propargyl alcohol	107197	P102	1000
Propargyl bromide	106-96-7		10
2-Propenal	107028	P003	1
*** [See Prior Text]			
2-Propen-1-ol	107186	P005	100
Beta-propiolactone	57-57-8		10
Propionaldehyde	123386		100@
*** [See Prior Text]			
Propionic anhydride	123626		5000
Propionitrile	107-12-0		10
Propionitrile, 3-chloro-	542-76-7		1000
Propiophenone, 4-amino	70-69-9		100
Propoxur (baygon)	114-26-1		100
n-Propylamine	107108	U194	5000
Propyl chloroformate	109-61-5		500
Propylene dichloride	78875	U083	1000
*** [See Prior Text]			
2-Propyn-1-ol	107197	P102	1000
Prothoate	2275-18-5		100
Pyrene	129000		5000
*** [See Prior Text]			
Pyridine	110861	U196	1000
Pyridine, 4-amino-	504-24-5		1000
Pyridine, 2-methyl-	109068	U191	5000
Pyridine, 2-methyl-5-vinyl	140-76-1		500
Pyridine, 3-(1-methyl-2-pyrrolidinyl)-, (S)-	54115	P075	100
Pyridine, 4-nitro-, 1-oxide	1124-33-0		500

2,4-(1H,3H)-Pyrimidinedione, 5-[bis(2-chloroethyl)amino]-	66751	U237	10
4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thio-	56042	U164	10
Pyriminil	53558-25-1		100
Pyrolidine, 1-nitroso-	930552	U180	1
Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3A,8,8A-hexahydro-1,3A,8-trimethyl-, methylcarbamate (ester), (3AS-CIS)-(physostigmine)	57-47-6		1
Quinoline	91225		5000
Quinone	106-51-4		10
Quintozene [pentachloronitrobenzene]	82-68-8		100
Reserpine	50555	U200	5000
*** [See Prior Text]			
Safrole	94597	U203	100
Salcomine	14167-18-1		500
Sarin	107-44-8		10
Selenious acid	7783008	U204	10
*** [See Prior Text]			
Selenium oxide	7446084	U204	10
Selenium oxychloride	7791-23-3		500
Selenium sulfide SeS ₂	7488564	U205	10
Selenourea	630104	P103	1000
Semicarbazide hydrochloride	563-41-7		1000
L-Serine, diazoacetate (ester)	115026	U015	1
Silane, (4-aminobutyl)diethoxymethyl-	3037-72-7		1000
Silver ³	7440224		1000
*** [See Prior Text]			
Sodium azide NaN ₃	26628228	P105	1000
*** [See Prior Text]			
Sodium bisulfite	7631905		5000
Sodium cacodylate	124-65-2		100
Sodium chromate	7775113		10
*** [See Prior Text]			
Sodium fluoride	7681494		1000
Sodium fluoroacetate	62-74-8		10
Sodium hydrosulfide	16721805		5000
*** [See Prior Text]			

Sodium phosphate, tribasic	7601549 7785844 10101890 10361894 7758294 10124568		500
Sodium selenate	13410-01-0		100
Sodium selenite	10102188 7782823		100
Sodium tellurite	10102-20-2		500
Stannane, acetoxetriphenyl-	900-95-8		500
Streptozotocin	18883664	U206	1
*** [See Prior Text]			
Strychnidin-10-one and salts	57249	P108	10
*** [See Prior Text]			
Strychnine and salts	57249	P108	10
Strychnine, sulfate	60-41-3		10
Styrene	100425		1000
Styrene oxide	96-09-3		100
Sulfotep	3689-24-5		100
Sulfoxide, 3-chloropropyl	3569-57-1		500
Sulfur dioxide	7446-09-5		500
Sulfur hydride	7783064	U135	100
*** [See Prior Text]			
Sulfur selenide	7488564	U205	1
Sulfur tetrafluoride	7783-60-0		100
Sulfur trioxide	7446-11-9		100
Sulfuric acid	7664939 8014957		1000
Sulfuric acid, dithallium(1+) salt	7446186 10031591	P115	100
*** [See Prior Text]			
2,4,5-Tamines	2008460 1319-72-8 3813-14-7 369-96-6 369-97-7		5000
*** [See Prior Text]			
2,4,5-Tsalts	13560991		1000
Tabun	77-81-6		10
TDE	72548	U060	1
Tellurium hexafluoride	7783-80-4		100
TEPP	107-49-3		10
Terbufos	13071-79-9		100
1,2,4,5-Tetrachlorobenzene	95943	U207	5000

*** [See Prior Text]			
Tetrachloroethylene (perchloroethylene)	127184	U210	100
*** [See Prior Text]			
Tetraethyl dithiopyrophosphate	3689245	P109	100
Tetraethyltin	597-64-8		100
Tetrahydrofuran	109999	U213	1000
Tetramethyl lead	75-74-1		100
Tetranitromethane	509148	P112	10
*** [See Prior Text]			
Thallium(I) sulfate	10031591 7446186	P115	100
Thallos malonate	2757-18-8		100
2H-1,3,5-thiadiazine-2-thione, tetrahydro-3,5-dimethyl-(dazomet)	533-74-4		1
Thioacetamide	62555	U218	10
Thiocarbamide	2231-57-4		1000
Thiodiphosphoric acid, tetraethyl ester	3689245	P109	100
*** [See Prior Text]			
Thiomethanol	74931	U153	100/ 1@
Thionazin	297-97-2		100
Thioperoxydicarbonic diamide [(H ₂ N)C(S)] ₂ S ₂ , tetramethyl-	137268	U244	10
Thioperoxydicarbonic diamide, tetrabutyl (tetrabutylthiuram disulfide)	1634-02-2		1
Thioperoxydicarbonic diamide, tetraethyl (disulfiram)	97-77-8		1
Thiophenol	108985	P014	100
*** [See Prior Text]			
Thiourea, (2-chlorophenyl)	5344821	P026	100
Thiourea, (2-methylphenyl)-	614-78-8		500
Thiourea, 1-naphthalenyl-	86884	P072	100
*** [See Prior Text]			
Thiram	137268	U244	10
Titanium tetrachloride	7550-45-0		1000
Toluene	108883	U220	1000
Toluenediamine	25376458 95-80-7 823-40-5 496-72-0	U221	10

Toluene-2,4-diisocyanate	584849 91-08- 726471-62- 5	U223	100
*** [See Prior Text]			
2,4,5-TPesters	32534955		100
Triamiphos	1031-47-6		500
Triazofos	24017-47-8		500
1H-1,2,4-Triazol-3-amine	61825	U011	10
Trichlorfon	52686		100
Trichloro(chloromethyl)silane	1558-25-4		100
Trichloro(dichlorophenyl)silane	27137-85-5		500
Trichloroacetyl chloride	76-02-8		500
1,2,4-Trichlorobenzene	120821		100
*** [See Prior Text]			
Trichlorethylene	79016	U228	100
Trichloroethylsilane	115-21-9		500
Trichloromethanesulfonylchloride	594423	P118	100
Trichloromonofluoromethane	75694	U121	5000
Trichloronate	327-98-0		500
Trichlorophenol	25167822		10
2,3,4-Trichlorophenol	15950-66-0		10
2,3,5-Trichlorophenol	933-78-8		10
2,3,6-Trichlorophenol	933-75-5		10
2,4,5-Trichlorophenol	95954	U230	10
2,4,6-Trichlorophenol	88062	U231	10
3,4,5-Trichlorophenol	609-19-8		10
Trichlorophenylsilane	98-13-5		500
Triethanolamine dodecylbenzene-sulfonate	27323417		1000
Triethoxysilane	998-30-1		500
Triethylamine	121448		5000
Trifluralin	1582-09-8		10
Trimethylamine	75503		100
Trimethylchlorosilane	75-77-4		1000
Trimethylolpropanephosphite	824-11-3		100
2,2,4-Trimethylpentane	540-84-1		1000
Trimethyltinchloride	1066-45-1		500
1,3,5-Trinitrobenzene	99354	U234	10
1,3,5-Trioxane,2,4,6-trimethyl-	123637	U182	1000
Triphenyltinchloride	639-58-7		500
Tris(2,3-dibromopropyl)phosphate	126727	U235	10
Tris(2-chloroethyl)amine	555-77-1		100

Trypanblue	72571	U236	10
*** [See Prior Text]			
Characteristic of Toxicity	N.A.		
Arsenic(D004)	N.A.		1
*** [See Prior Text]			
Chloroform(D022)	N.A.		10
Chromium(D007)	N.A.		10
o-Cresol(D023)	N.A.		100
m-Cresol(D024)	N.A.		100
p-Cresol(D025)	N.A.		100
Cresol(D026)	N.A.		100
*** [See Prior Text]			
Urea, N-methyl-N-nitroso-	684935	U177	1
Urethane	51-79-6		100
Valinomycin	2001-95-8		1000
Vanadic acid, ammonium salt	7803556	P119	1000
*** [See Prior Text]			
Vanadylsulfate	27774136		1000
Vinyl bromide	593-60-2		100
Vinyl chloride	75014	U043	1
*** [See Prior Text]			
Xylene(mixed)	1330207	U239	100
m-Benzene, dimethyl	108383		1000
o-Benzene, dimethyl	95476		1000
p-Benzene, dimethyl	106423		100
Xylenol	1300716		1000
Xylylene dichloride	28347-13-9		100
Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5- trimethoxybenzoyl)oxy]-,methyl ester(3beta,16beta,17alpha, 18beta,20alpha)-	50555	U200	5000
*** [See Prior Text]			
Zinc ammonium chloride	52628258 14639975 14639986		1000
Zinc, bis(diethylcarbamo-dithioato-S,S')-(ethyl ziram)	14324-55-1		1
Zinc, bis(dimethylcarbamo-dithioato-S,S')-(ziram)	137-30-4		1
Zinc borate	1332076		1000

*** [See Prior Text]			
Zinc sulfate	7733020		1000
Zinc, dichloro(4,4-dimethyl-5-(((methylamino)carbonyloxy)imino)pentaneitrile-, (T-4)-	58270-08-9		100
Zirconium nitrate	13746899		5000
*** [See Prior Text]			
F004 The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents:		F004	100
(a) Cresols/Cresylic acid	1319773		100
*** [See Prior Text]			
K002 Wastewater treatment sludge from the production of chrome yellow and orange pigments.		K002	10
K003 Wastewater treatment sludge from the production of molybdate orange pigments.		K003	10
*** [See Prior Text]			
K005 Wastewater treatment sludge from the production of chrome green pigments.		K005	10
*** [See Prior Text]			
K046 Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds.		K046	10
*** [See Prior Text]			
K048 Dissolved air flotation (DAF) float from the petroleum refining industry.		K048	10
K049 Slop oil emulsion solids from the petroleum refining industry.		K049	10
*** [See Prior Text]			
K051 API separator sludge from the petroleum refining industry.		K051	10
*** [See Prior Text]			
K061 Emission control dust/sludge from the primary production of steel in electric furnaces.		K061	10

K062 Spent pickle liquor generated by steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332).		K062	10
K064 Acid plant blowdown slurry/sludge resulting from thickening of blowdown slurry from primary copper production.		K064	10
K065 Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities.		K065	10
K066 Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production.		K066	10
K069 Emission control dust/sludge from secondary lead smelting.		K069	10
*** [See Prior Text]			
K086 Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead.		K086	10
*** [See Prior Text]			
K088 Spent potliners from primary aluminum reduction.		K088	10
K090 Emission control dust or sludge from ferrochromium silicon production.		K090	10
K091 Emission control dust or sludge from ferrochromium production.		K091	10
*** [See Prior Text]			
K100 Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting. (Components of this waste are identical with those of K069).		K100	10
*** [See Prior Text]			
K136 Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.		K136	1

K141 Process residues from recovery of coal tar, including, but not limited to, those generated in still, decanters, and wash oil recovery units from recovery of coke byproducts produced from coal.		K141	1
K142 Tar storage tank residues from production of coke from coal or from recovery of coke byproducts produced from coal.		K142	1
K143 Process residues from recovery of light oil, including, but not limited to, those generated in stills, decanters, and wash oil recovery units from the recovery of coke byproducts produced from coal.		K143	1
K144 Wastewater treatment sludges from light oil refining, including, but not limited to, intercepting or contamination sump sludges from recovery of coke byproducts produced from coal.		K144	1
K145 Residues from naphthalene collection and recovery operations from recovery of coke byproducts produced from coal.		K145	1
K147 Tar storage tank residues from coal tar refining.		K147	1
K148 Residues from coal tar distillation, including, but not limited to, still bottoms.		K148	1
K149 Distillation bottoms from production of alpha-(or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups (do not include still bottoms from distillation of benzyl chloride).		K149	10
K150 Organic residuals, excluding spent carbon adsorbent, from spent chlorine gas and HCl recovery processes associated with production of alpha-(or methyl-) chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.		K150	10
K151 Wastewater treatment sludges, excluding neutralization and biological sludges, generated during the treatment of wastewaters from production of alpha-(or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.		K151	10

K156 Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyloximes.		K156	1
K157 Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyloximes (this listing does not include sludges derived from the treatment of these wastewaters).		K157	1
K158 Baghouse dusts and filter/separation solids from the production of carbamates and carbamoyloximes.		K158	1
K159 Organics from the treatment of thiocarbamate wastes.		K159	1
K160 Solids (including filter wastes, separation solids, and spent catalysts) from the production of thiocarbamates and solids from the treatment of thiocarbamate wastes.		K160	1
K161 Purification solids (including filtration, evaporation, and centrifugation solids), baghouse dust, and floor sweepings from the production of dithiocarbamate acids and their salts (this listing does not include K125 or K126).		K161	1

* No reporting of releases into the ambient air of this metal is required if the diameter of the pieces of solid metal released is equal to or exceeds 100 micrometers (0.004 inches).

** The combined emissions of all glycol ethers shall be totaled to determine if a Reportable Quantity has been exceeded.

*** The combined emissions of Naphthalene and Methyl naphthalene(s) shall be totaled to determine if a Reportable Quantity has been exceeded.

**** The combined emissions of all Polynuclear Aromatic Hydrocarbons (PAHs), excluding any PAHs otherwise listed, shall be totaled to determine if a Reportable Quantity has been exceeded.

¹ Chemical Abstracts Service Registry Number.

² Resource Conservation and Recovery Act of 1976, as amended.

³ Prompt notification of releases of massive forms of these substances is not required if the diameter of the pieces of the substance released is equal to or exceeds 100 micrometers (0.004 inches).

⁴ The combined emissions of all volatile organic compounds (VOCs), excluding any VOCs otherwise listed, shall be totaled to determine if a reportable quantity has been exceeded. VOC is defined in LAC 33:III.111 and exempt compounds are listed in LAC 33:III.2117.

@ The first RQ listed denotes the reportable quantities that will apply to unauthorized emissions based on total mass emitted into or onto all media within any consecutive 24-hour period. The second RQ listed denotes the reportable quantities that will apply to unauthorized emissions based on total mass emitted into the atmosphere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 30:2060(H), 30:2076(D), 30:2183(I), 30:2194(C), 30:2204(A), and 30:2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation

Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:

A public hearing will be held on November 24, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS023*. Such comments must be received no later than November 24, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. The comment period for this rule ends on the same date as the public hearing.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaereg.htm>.

Herman Robinson
Assistant Secretary

9710#103

NOTICE OF INTENT

Department of Environmental Quality Office of Water Resources

Water Pollution Control Fee System
(LAC 33:IX.1303, 1307, 1309,
1311, and 1315)(WP026)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Pollution Control Division and Water Quality Management Division Regulations, LAC 33:IX.1303, 1307, 1309, 1311, and 1315 (WP026).

The proposed rule will amend the Louisiana Water Pollution Control Fee System regulations to provide additional revenues that are needed to meet state and federal mandates to develop, implement, and assess Total Maximum Daily Loads (TMDL). A TMDL is a tool for determining allowable pollutant loadings for a waterbody and providing for the establishment of water quality-based controls necessary for that waterbody to meet water quality standards. Louisiana Water Pollution Control Fee System fees are applicable to all water discharge permits and are assessed for the purpose of funding the operation and activities of the Office of Water Resources in accordance with R.S. 30:2001

et seq. Annual fee amounts are calculated by multiplying the rating points, computed using the Annual Fee Rating Worksheet, times a rate factor, currently \$97.50 for municipal facilities and \$179.16 for all other facilities. This proposal will amend the Louisiana Water Pollution Control Fee System regulations to incorporate an overall 15 percent increase of the current fee to be implemented in two 7.5 percent increases in July 1998 and July 1999. The rule will amend the fee currently assessed to facilities permitted under the Louisiana Water Pollution Control Fee System as follows:

- 1) the municipal rate factor (from \$97.50 to \$104.81, then to \$112.12);
- 2) the rate factor for all other facilities (from \$179.16 to \$192.60, then to \$206.03);
- 3) the maximum annual fee (from \$94,500 to \$101,587.50, then to \$108,675); and
- 4) the minimum annual fee (from \$227.50 to \$244.56, then to \$261.63).

The basis and rationale for this proposed rule are to implement R.S. 30:2089, which states that in order to provide for the development of TMDLs and as otherwise may be necessary to protect the waters of the state of Louisiana, it is necessary for the department to increase the fees assessed by the Office of Water Resources.

The department has submitted a report to the Legislative Fiscal Office and the Joint Legislative Committee on the Budget demonstrating that the environmental and public health benefits outweigh the social and economic costs reasonably expected to result from the proposed rule. This report is published in the potpourri section of this issue of the *Louisiana Register*.

Title 33 ENVIRONMENTAL QUALITY

Part IX. Water Quality

Chapter 13. Louisiana Water Pollution Control Fee System Regulation

§1303. Authority

These regulations provide fees as required by R.S. 30:2014(B) and 2089.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 24:

§1307. Definitions

All terms used in these regulations, unless the context otherwise requires or unless specifically defined in the Louisiana Environmental Quality Act, or in substantive regulations promulgated by the secretary of the Department of Environmental Quality, shall have their usual meaning. In addition, for purposes of these regulations, the following definitions apply:

* * *

[See Prior Text]

Facility—for the purposes of the Louisiana Water Pollution Control Fee System, a pollution source, or any public or private property or site and all contiguous land and structures, other appurtenances and improvements, where an activity is conducted that discharges or may result in the discharge of pollutants into waters of the state.

* * *

[See Prior Text]

Major Facility—for the purposes of the Louisiana Water Pollution Control Fee System, any facility classified as such by the administrative authority.

* * *

[See Prior Text]

Permit or License—for the purposes of the Louisiana Water Pollution Control Fee System, written authorization issued by the administrative authority to discharge, emit, or dispose of liquid, gaseous, semi-solid or solid waste or reusable materials, or radioactive material from or at a site or facility, including all conditions set forth therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 18:731 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR 24:

§1309. Fee System

A. Applicability. Fees established by these regulations shall be applicable to all facilities subject to regulation under the Louisiana Water Control Law, R.S. 30:2071 et seq., including those with no discharge and/or closed system permits.

* * *

[See Prior Text in B - B.2]

3. The rate factor shall be applied per rating point as follows:

a. for municipal facilities:

- i. \$97.50 per rating point through June 30, 1998;
- ii. \$104.81 per rating point from July 1, 1998,

through June 30, 1999; and

iii. \$112.12 per rating point as of July 1, 1999; and

b. for all other facilities:

- i. \$179.16 per rating point through June 30, 1998;
- ii. \$192.60 per rating point from July 1, 1998,

through June 30, 1999; and

iii. \$206.30 per rating point as of July 1, 1999.

* * *

[See Prior Text in B.4 - C.2]

3. This fee shall be 20 percent of the calculated annual fee but not less than the minimum annual fee, as defined in Subsection E.1 of this Section.

* * *

[See Prior Text in D - D.2]

3. This fee shall be 20 percent of the calculated annual fee but not less than the minimum annual fee, as defined in Subsection E.1 of this Section, for permit actions requiring implementation of the public notice procedure.

4. For all other permit actions, this fee shall be 10 percent of the calculated annual fee but not less than the minimum annual fee, as defined in Subsection E.1 of this Section.

E. Minimum and Maximum Annual Fee

1. The minimum annual fee shall be:

- a. \$227.50 through June 30, 1998;
- b. \$244.56 from July 1, 1998, through June 30, 1999;

and

c. \$261.63 as of July 1, 1999.

2. The maximum annual fee shall be:

- a. \$94,500 through June 30, 1998;
- b. \$101,587.50 from July 1, 1998, through June 30, 1999; and
- c. \$108,675 as of July 1, 1999.

* * *

[See Prior Text in F - M]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:626 (September 1988), LR 18:731 (July 1992), LR 21:798 (August 1995), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR 24:

§1311. Instructions for Completing Municipal Facility Annual Fee Rating Worksheet

* * *

[See Prior Text in A - A.2]

3. Check the applicable complexity designation and record the associated points in the complexity points blank.

Note: Any industrial category not listed in LAC 33:IX.1319 is automatically assigned a Complexity Designation I except under the circumstances noted in LAC 33:IX.1309.L.2.

* * *

[See Prior Text in A.4 - G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:627 (September 1988), LR 18:732 (July 1992), LR 24:

§1315. Instructions for Completing Industrial Facility Annual Fee Rating Worksheet

* * *

[See Prior Text in A - A.2]

3. Check the applicable complexity designation and record the associated points in the complexity points blank.

Note: Any industrial category not listed in LAC 33:IX.1319 is automatically assigned a Complexity Designation I except under the circumstances noted in LAC 33:IX.1309.L.2.

* * *

[See Prior Text in A.4 - G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 18:733 (July 1992), amended LR 24:

A public hearing will be held on November 24, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by WP026. Such comments must be received no later than Friday, December 1, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development

Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Linda Korn Levy
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Water Pollution Control Fee System**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs to the state are expected to be negligible since this is a modification of an existing fee system. On a state-wide basis, local government units are estimated to incur additional annual costs of approximately \$115,000 from the proposed increase in fees.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed 15 percent fee increase over the current fee will be broken down into two 7.5 percent increases implemented over two fiscal years. An increase (over FY 97) of approximately \$864,000 in revenues will result from the proposed initial 7.5 percent increase effective July 1, 1998. An overall increase (over FY 97) of approximately \$1,728,000 in revenues will result from the proposed second 7.5 percent increase effective July 1, 1999.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed amendment will directly affect approximately 400 permitted municipal facilities and 2,200 nonmunicipal facilities that are currently included in the fee system established by this office. These facilities will be assessed an initial 7.5 percent in annual fees effective July 1, 1998, followed by an additional 7.5 percent increase effective July 1, 1999. The fee increases will range from \$34.13 (\$227.50 to \$261.63) up to \$14,175 (\$94,500 to \$108,675).
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition or employment is anticipated as a result of this proposed rule.

Linda Korn Levy
Assistant Secretary
9710#092

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of Water Resources
Municipal Facility Division**

Drinking Water Revolving Loan Fund
(LAC 33:IX.2201-2213)(WP027)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Municipal Facilities Division regulations, LAC 33:IX.Chapter 22 (WP027).

This proposed rule establishes requirements for participation in the Drinking Water Revolving Loan Fund program as authorized by the Safe Drinking Water Amendments of 1996 and Act 480 of the 1997 Regular Session of the Louisiana Legislature. The Drinking Water Revolving Loan Fund will provide financial assistance to qualified borrowers for the construction of eligible drinking water facilities. The rule provides information relating to eligibility of projects, application requirements, environmental reviews, and loan conditions. The basis and rationale for this proposed rule are to implement the Drinking Water Revolving Loan Fund program as authorized by the Safe Drinking Water Amendments of 1996 and Act 480 of the 1997 Regular Session of the Louisiana Legislature and to provide the mechanism for the state to qualify for federal funds that will provide financial assistance to water systems for the construction of eligible drinking water facilities.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality**

**Chapter 22. Drinking Water Revolving Loan Fund
§2201. Introduction**

A. The Department of Health and Hospitals, Office of Public Health (OPH), is the state agency within Louisiana granted primary enforcement responsibility from the EPA to ensure that public drinking water systems within the state are in compliance with state regulations that are no less stringent than federal drinking water regulations adopted in accordance with the Safe Drinking Water Act (SDWA) (42 U.S.C. 300f et seq.). The SDWA Amendments of 1996 authorized a state revolving loan fund program and grants to assist water systems in financing the costs of infrastructure improvements to achieve compliance with the SDWA.

B. In accordance with the Louisiana Constitution and authorizing legislation, the Department of Environmental Quality (the department) is assisting OPH in the financial administration of the Drinking Water Revolving Loan Fund (the fund). Regulations governing the fund program are promulgated by both OPH and the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, LR 24:

2203. Authority

These regulations provide for the Drinking Water Revolving Loan Fund as required by R.S. 30:2011 et seq. and in particular R.S. 30:2011(A)(3), D(1); 2074(A)(4), (B)(8); 2824(A); 2826(A), (B), (E), and (F).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, LR 24:

§2205. Definitions

The following terms used in these regulations shall have the following meanings:

Administrative Fee—the fee due from a borrower to the department at the origination of a loan and/or on the outstanding principal amount of a loan payable in installments at such rate or rates and at such time or times as may be established by the secretary.

Applicant—any person, as defined, that submits an application for financial assistance in accordance with these regulations.

Binding Commitment Agreement—an instrument evidencing a legal obligation by the department, acting on behalf of the state, to a person that sets forth terms for making a loan from the fund and/or providing such other financial assistance as may be authorized in connection with the program.

Borrower—any person receiving financial assistance for the construction of a drinking water facility.

Completion Date—the date the operation of a completed project receiving financial assistance from the fund is initiated or capable of being initiated, whichever is earlier.

Construction—includes preliminary planning, engineering, architectural, legal, fiscal, and economic investigations and/or studies, surveys, designs, plans, working drawings, specifications, erection, building, acquisition, alteration, remodeling, improvement, or extension of the project.

Department—the Louisiana Department of Environmental Quality.

Drinking Water Facilities—facilities for the purpose of collecting, transporting, treating, storing, distributing, or holding drinking water.

Environmental Review—an assessment by the department of the environmental impact of a proposed project and assurances that the project will comply with all environmental laws and executive orders applicable to the project area.

Financial Assistance—loans, credit enhancement devices, guarantees, pledges, interest rate swap agreements, linked

deposit agreements, and other financial subsidies authorized by law.

Fund—the Drinking Water Revolving Loan Fund established by the department in accordance with the Safe Drinking Water Act (SDWA) Amendments of 1996 and Act 480 of the 1997 Regular Session of the Louisiana Legislature.

Letter of Intent—a written notification of the intent of the applicant to participate in the fund program. The notification must include a request for financial assistance, the estimated amount of financial assistance, and an estimated construction schedule and document the authority of the applicant.

Loan or Loans—a disbursement of money made by the department from the fund to a person in accordance with a loan and pledge agreement.

Loan and Pledge Agreement—a contractual arrangement by and between a person and the state acting by and through the department, providing for a loan or loans to such person for the purpose of paying the eligible cost of a project or projects.

Operation, Maintenance, and Replacement (O, M, and R)—those functions that result in expenditures during the useful life of the drinking water facilities for materials, labor, utilities, and other items that are necessary for managing and maintaining the drinking water facilities to achieve the capacity and performance for which such works were designed and constructed, including replacement.

Person—any individual, partnership, firm, corporation, company, cooperative, association, society, trust, or any other business unit or entity, including any municipality, or state agency.

Project or Projects—the activities or tasks identified in a loan and pledge agreement for which a person has made a loan and may expend, obligate, or commit loan proceeds.

Secretary—the secretary of the Department of Environmental Quality.

State—the state of Louisiana or any agency or instrumentality thereof.

System Improvement Plan—the necessary plans and studies relating to the construction of a complete project of drinking water facilities.

User Charge—a charge or fee levied on users of drinking water facilities for the cost of operation, maintenance, and replacement. User charges may include other costs such as the repayment of debt incurred for the construction of the drinking water facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, LR 24:

§2207. Eligibility for Participation

A. Letter of Intent. An applicant shall send a letter of intent to the department and OPH.

B. Eligible Projects. Financial assistance may be provided only for the construction of drinking water facilities as described in a system improvement plan approved by OPH. The department may consider criteria such as ownership, ability to repay, managerial capability, or other such criteria to determine the amount and type of financial assistance for a project.

C. Allowable/Eligible Costs. Allowable cost determinations, based on applicable law and regulations, may be made by OPH or the department, on a project-by-project basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, LR 24:

§2209. Application Requirements and Loan Conditions

A. Limitation on Applications. An application shall only be funded after authorization from OPH and after meeting all of the department's requirements.

B. Application Package. The contents of the application package must contain all applicable information required by the department including, but not limited to, the following:

1. System Improvement Plan. The applicant will submit, through OPH, a system improvement plan consisting of those necessary plans and studies that directly relate to construction of drinking water facilities. The system improvement plan must contain enough information to allow the department to perform an environmental review.

2. Financial Information. The applicant is required to submit sufficient information to demonstrate its legal, institutional, managerial, and financial capability to ensure the construction, operation, and maintenance of the drinking water facilities and repayment of the loan, interest, and administrative fees.

3. Site Certificate. The applicant must submit a certificate executed by an attorney certifying that the applicant has acquired all property sites, easements, rights-of-way, or specific use permits necessary for construction, operation, and maintenance of the project described in the approved system improvement plan.

C. Loan Conditions. Loans for projects will be made only to eligible applicants that:

1. provide a fair and equitable user charge system that generates revenues sufficient to cover the costs of O, M, and R for the system;

2. agree to own, operate, and maintain the drinking water facilities so that such drinking water facilities will function properly as long as the loan and pledge agreement is in effect;

3. agree to properly maintain financial records, have periodic audits, and make these records available to the department, OPH, EPA, or their designees upon request;

4. commit to undertake the expenditure of loan proceeds for construction or other eligible project costs within six months after entering into a binding commitment agreement or such time frame as may be required by the department, provided that failure to start the expenditure of funds within one year after entering into a binding commitment agreement may result in the withdrawal by the department of all financial assistance;

5. agree to evidence the loan by a bond, note, or other form of evidence of indebtedness prescribed or approved by the department; and

6. agree to pay administrative fees imposed by the department to defray long term administrative costs associated with the fund program.

D. Loan Period. Loans shall be made for a period of time not to exceed 20 years from the completion date of the construction of a project, except for loans for projects for disadvantaged communities as defined by OPH that may have loan periods up to 30 years with approval of the department. Interim construction financing shall not exceed two years without written approval from the department and from OPH.

E. Loan Repayment. Loan repayments of the principal, administrative fees, and interest installments will be set by the department, with the first installment due no later than one year following the project's completion date. The department will establish the loan repayment schedule in the terms of the loan and pledge agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, LR 24:

§2211. Events of Default and Remedies

The provisions for events of default and remedies will be specified in the loan and pledge agreement for each borrower receiving a loan from the fund. The secretary or the undersecretary of the department must approve all remedies for events of default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, LR 24:

§2213. Miscellaneous

The department may take certain actions and require a borrower to take actions necessary to assure compliance by such borrower with requirements of the *Internal Revenue Code* of 1986, as amended, in connection with a loan from the fund. The borrower shall reimburse the department for any cost incurred by the department in connection with any such actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, LR 24:

A public hearing will be held on November 24, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by WP027. Such comments must be received no later than December 1, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA

70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Linda Korn Levy
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Drinking Water Revolving Loan Fund**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on state or local governmental expenditures is anticipated. The rule merely establishes procedures and conditions necessary for the department to perform its statutorily mandated duty to administer the financial aspects of the newly created Drinking Water Revolving Loan Fund. Additional workload will be handled by existing staff.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No significant costs and/or economic benefits to directly affected persons or nongovernmental groups are anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect of this proposed amendment on competition and employment is anticipated.

Linda Levy
Assistant Secretary
9710#093

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Architects Selection Board**

Regular Meeting Dates; Application Form;
and Voting Procedure (LAC 4:VII.Chapter 1)

The Architects Selection Board proposes to amend a rule on the procedure by which the board procures the services of architects licensed to practice in the state of Louisiana. This rule will replace the rule now in effect, and changes the existing rule in the following ways:

1. It revises the dates of regular meetings. Experience has shown the specified dates of the regular meetings to be difficult to meet.
2. It changes the designation of the application form. The designation of the application form in use was not accurately stated in the rules.

3. It changes the voting procedure used to select applicants to be interviewed in the interview process. The current procedure limits the number of firms that can be interviewed.

The text of this proposed rule may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit comments through November 20, 1997, to William S. Morrison, Box 94095, Baton Rouge, Louisiana 70804-9095. He is responsible for responding to inquiries regarding this proposed rule.

Roger Magendie
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Comprehensive Rule Revision**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition will be improved in the architects' selection process. There will be no effect on employment.

Roger Magendie
Director
9710#057

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Property Assistance Agency**

Federal Property Assistance Program
(LAC 34:IX.Chapters 1-31)

Notice is hereby given that the Office of the Governor, Division of Administration, Property Assistance Agency in accordance with R.S. 49:950 et seq., in order to be in conformity with law, intends to amend and reenact the following rules governing the Federal Property Assistance Program.

Executive Order MJF 97-19, dated January 1, 1997, authorizes the name of the program to be the Louisiana Federal Property Assistance Program, a unit of the Louisiana Property Assistance Agency, a section of the Division of Administration in the Executive Branch of the Office of the Governor. This executive order authorizes the director of the

agency, acting through the program manager, to possess all power and authority necessary to exercise and perform all the functions, duties, and responsibilities cited in the plan of operation, so as to comply with all applicable state and federal laws and regulations. The following proposed changes are designed to accommodate the executive order.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part IX. Federal Property Assistance Program

Chapter 1. Legal Authority

§101. Executive Order

Executive Order MJF 97-19, dated January 1, 1997, authorizes the name of the program to be the Louisiana Federal Property Assistance Program, a unit of the Louisiana Property Assistance Agency, a section of the Division of Administration in the Executive Branch of the Office of the Governor. This executive order authorizes the director of the agency, acting through the program manager, to possess all power and authority necessary to exercise and perform all the functions, duties and responsibilities cited in the plan of operation, so as to comply with all applicable state and federal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:411 (October 1977), repromulgated LR 9:839 (December 1983), amended by the Property Assistance Agency, LR 24:

§103. Attorney General's Ruling

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 104-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:411 (October 1977), repromulgated LR 9:839 (December 1983), repealed by the Property Assistance Agency, LR 24:

§105. Appropriations Bill

The ancillary budget identifies the revolving fund of the program which is used as the means of financing for the program's operations.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:411 (October 1977), repromulgated LR 9:839 (December 1983), amended by the Property Assistance Agency, LR 24:

Chapter 3. Designation of State Agency

§301. Agency Responsible

The Federal Property Assistance Program, a unit of the Louisiana Property Assistance Agency, a section of the Division of Administration, which is in the Executive Branch of the Office of the Governor, is designated as the agency responsible for administering the federal surplus property program in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance

Agency, LR 3:411 (October 1977), repromulgated LR 9:839 (December 1983), amended by the Property Assistance Agency, LR 24:

§303. Organization of the Program

The program is under the supervision of the program manager, who directs the implementation of this plan of operation, which fully outlines the provisions of P.L. 94-519. This is a permanent plan of operation that is in compliance with 41 CFR 101-44 and P.L. 94-519. The program manager, with a staff of 16 employees, directs the operation of the program through inspection, selection, acquisition, transportation, storage, and issuance of federal surplus property to eligible donees in the state of Louisiana. The main segments of the organization are:

1. program management;
2. administration;
3. procurement, compliance, and utilization;
4. operations and property distribution.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:411 (October 1977), amended LR 9:839 (December 1983), amended by the Property Assistance Agency, LR 24:

§305. Facilities

The program offices are located at 1635 Foss Drive, Baton Rouge, Louisiana. The central facilities are at this location, which includes approximately 29,000 square feet of covered space, 200,000 square feet of outside storage space, and 900 square feet of parking. This facility is owned by the state of Louisiana and is rent-free.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:412 (October 1977), repromulgated LR 9:840 (December 1983), amended by the Property Assistance Agency, LR 24:

Chapter 5. Inventory Control and Accounting System

§501. Inventory Control

A. Scope of Accountability System. The program shall maintain accurate accountability records of all donable property approved for transfer to the program and donable property received, warehoused, distributed, and disposed of by the program. Accountability records of all passenger motor vehicles and single items having an acquisition cost of \$5,000 or more, on which restrictions are imposed, shall be maintained in order to identify the items.

B. Checking Property into Program Custody

1. All property received shall be checked in promptly, as soon as full identification can be completed.

2. The approved copy of the Standard Form 123 (SF-123) is used as the basis for checking property into the program facility. The inventory adjustment voucher shall be used for property received without the SF-123. To supplement these, available shipping documents, invoices, trucking bills of lading, donee reports, etc. will be used.

3. Exceptions or differences in a line item on the SF-123 are noted when the item(s) are received to reflect any increase or decrease as it affects the line item. This action will be documented to report any change in the amount initially

allocated on a report of overages/shortages. This action is subsequently posted to the Property Receipts Register.

4. The SF-123 is considered as an order; therefore, any differences, over or short, are recorded on the Shortage/Overage Report Form. Copies of this form in every case are forwarded to the General Services Administration (GSA) regional office involved. A copy is also mailed to the holding agency when the record of receipt shows a variance from the quantities and items shown on shipping documents.

5. In accordance with the requirements of Federal Property Management Regulations (FPMR) 101-44.115 concerning overages, when the estimated fair value or acquisition cost of a line item of property is over \$500, it will be listed on the SF-123 and sent to the GSA regional office for approval.

C. All issues of property to eligible donees are recorded on a distribution document (invoice) with provisions made for recording the name of the item, state serial number, quantity, government acquisition cost, and service charges.

D. Periodic Verification of Property on Hand

1. A financial verification of the property on hand at the end of each month at the state agency is made and reconciled with the books, in accordance with accepted accounting practices.

2. A physical inventory will be completed each fiscal year. This physical inventory will be compared with a unit-generated computer printout as each segment is completed. All differences will be properly noted, recorded, and will become a part of the regular accounting system. Any adjustments on items shall be reported to the manager for approval and any necessary follow-up and corrective action.

E. Tracing Property from Receiving Document to Issue Document

1. Each line item on the receiving report (Form 123) must be entered on the computer including noun nomenclature, federal supply classification code (group code), government acquisition cost, condition code, receipt date, and quantity received. Each receiving document is recorded in a register, and a file folder is maintained for each receiving document.

2. Each warehouse write-up document is numbered and filed numerically by month.

3. Every issue document (invoice) that is generated from the warehouse write-up documents must be entered on the computer so that the computer reports accurately reflect the federal property inventory. Each issue document is filed numerically by month. These documents are also filed by donee organization and are grouped by parish.

F. Means of Determining Quantity of Various Types of Property Donated to Individual Donees

1. A file folder is maintained in the program offices for each eligible donee. This folder will hold a copy of each distribution document (invoice), monthly status of account, correspondence, reports, and other items involving transactions with the donee.

2. A separate compliance record is maintained for each donee on items with a unit acquisition cost of \$5,000 or more and on all passenger motor vehicles on which restrictions are imposed.

3. A summary of distribution to record the acquisition cost of property transferred to each eligible unit is prepared monthly.

G. Disposal of Property of No Value to Program. Property will be reported to GSA for transfer to another state agency or disposed of by public sale, dumping, or abandonment, as authorized. Appropriate records are maintained to cover such disposals, in accordance with the procedures and requirements of FPMR 101-44.205.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:411 (October 1977), amended LR 9:840 (December 1983), amended by the Property Assistance Agency, LR 24:

§503. Financial Accounting

Scope. A double entry financial accounting system provides a full accounting of all property requested, screened, received, issued, and disposed of, plus income, expenses, and status of the revolving fund. The system includes:

1. distribution documents (invoices);
2. accounts payable;
3. accounts receivable;
4. sale register (issues);
5. property receipts register;
6. deposit slips and vouchers;
7. cost center responsibility report (budget control);
8. general ledger;
9. payment of bills and expenses;
10. monthly financial report;
11. in-use inventory;
12. State Property Inventory Control Report;
13. record of disposals;
14. statistical analysis reports.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:413 (October 1977), amended LR 9:840 (December 1983), repromulgated by the Property Assistance Agency, LR 24:

Chapter 7. Return of Donated Property

§701. Return of Property by Donee

A. When a determination has been made that property has not been put in use by a donee within one year from the date of receipt of the property, or when the donee has not used the property for one year thereafter under the terms and conditions of the Application, Certification, and Agreement Form signed by the chief executive officer or other authorized representative of the donee as a condition of eligibility (and repeated on the reverse side of each distribution document), the donee, if property is still usable, as determined by the program office, must either:

1. return the property, at its own expense, to the program warehouse;
2. transfer the property to another eligible donee within the state or to a federal agency, as directed by the program manager;
3. make such other disposal of the property, as the program manager may direct.

B. The program manager will periodically emphasize this requirement when corresponding and meeting with donees and when surveying and auditing utilization of donated property at donee facilities.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:413 (October 1977), repromulgated LR 9:540 (December 1983), amended by the Property Assistance Agency, LR 24:

Chapter 9. Financing and Service Charges

§901. Financing

A. The state legislature approves the budget for the program, and an appropriation bill is signed into law by the governor each fiscal year which allows the program to operate a revolving fund. This allows the program to receive service charges from donees in order to defray the costs of the operating within the approved budget.

B. Funds expended or advanced, or commitments made or incurred shall be paid or provided for from the receipts of the program's revolving fund prior to the close of the fiscal year.

C. The revolving fund is established with the state treasurer to maintain the revenues from service charges which cover the costs of administering and operating this program. Monies deposited to the revolving fund must be used only for such purposes and for the short- and long-term benefit of the donees.

D. All income from service charges and other monies received by the program are deposited to the revolving fund. Payments covering all expenses are made by state check. All remittances must be in the form of checks drawn on the account of the donee and made payable to the program. All expenditures made from the revolving fund will be in accordance with federal regulations as per FPMR 101-44.202(c)(5).

E. Any evident surplus in the revolving fund shall be passed directly to the donees' benefit through reduction in the service charges for the current inventory during the fiscal year. Surpluses during the fiscal year may be utilized by the manager to acquire additional distribution facilities, improve existing facilities, or other capital expenditures deemed by the manager to be in the best overall interests of the donees. In the event the program is to be terminated, service charges will be reduced to the extent that any surplus will be passed on to the donees on the usable inventory.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:413 (October 1977), repromulgated LR 9:841 (December 1983), amended by the Property Assistance Agency, LR 24:

§903. Service Charges

A. Service charges are established for items at the time of receipt of the property and are designed to effect full recovery of the cost of operations of the program. The service charges shall be clearly marked on each item or lot. The service charges are based on the prorated expenses incurred annually by the program including, but not limited to, the following major cost areas: personnel, transportation, utilities, fuels,

telephone, warehousing, storage, compliance, insurance, printing, supplies, and travel.

B. The service charges assessed each item shall be reasonable and fair in relation to the cost incurred and the services performed by the program. Emphasis will be placed on keeping the service charges to a minimum, but at the same time, providing the necessary service. Other factors considered in determining service charges are original acquisition cost, present value, screening cost, quantity, condition, desirability of property, transportation, loading and unloading cost, packing and crating, administrative cost, utilization and compliance, and delivery to donee when required.

C. The service and handling charge will be determined by applying zero to 50 percent of original acquisition cost or fair market value, taking into consideration factors listed in §903.B, D, and E and §907.C. The total of the service charges for all property donated by the program during any given fiscal year shall not exceed 15 percent of the original government acquisition cost of the property.

D. Special or extraordinary costs may be added to the service charges as follows.

1. Rehabilitated Property. Direct costs for rehabilitating property will be added to the service charge.

2. Overseas Property. Additional direct costs for returning the property may be added.

3. Long-Haul Property. Charges for major items with unusual costs may be added. Any such costs which are anticipated will be discussed with the donee prior to shipment.

4. Special Handling. An additional charge may be made for dismantling, packing, crating, shipping, delivery, and other extraordinary handling charges.

5. Screening. Extraordinary costs incurred in screening property may be added.

6. Homeless. Property provided to homeless activities (P.L. 110-77, Stewart B. McKinney Homeless Assistance Act enacted July 22, 1987) will be provided at a nominal fee.

E. The manager has the authority to reduce the service charges due to property condition. The manager may request, from the GSA regional office, a reduction on high-acquisition cost items when in poor condition, or when the item is to be used for secondary purposes.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:413 (October 1977), repromulgated LR 9:841 (December 1983), amended LR 16:690 (August 1990), amended by the Property Assistance Agency, LR 24:

§905. Minimal Charges

A. Service charges for items requested by a donee and which are shipped directly from the federal holding agency to the donee shall be based on a percentage of the acquisition cost of the item, which is derived from the percentage of the cost for each of the functions performed by the program.

B. Transportation costs, if transportation is provided by the program, shall be based on the cost per mile, cost of loading, unloading, crating, and packing. Transportation arranged by the donee shall be paid direct by the donee and

must be provided in a timely manner in order not to lose the priority for the item.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:414 (October 1977), amended LR 9:841 (December 1983), amended by the Property Assistance Agency, LR 24:

§907. Special Donations

A. In cases involving major items of property or otherwise where unusual expenses may be incurred, the program may negotiate the service charge with the donee.

B. The State Agency Quarterly Donation Report of Surplus Personal Property will be used to measure performance.

C. The manager has the authority to reduce the service charge when he believes that an element of the charge is not applicable, or when he deems it to be in the best interests of the program.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:414 (October 1977), repromulgated LR 9:841 (December 1983), amended by the Property Assistance Agency, LR 24:

Chapter 11. Terms and Conditions on Donable Property

§1101. Restrictions on Property

A. The program will require each eligible donee, as a condition of eligibility, to file with the program office an Application, Certification and Agreement form outlining the certifications, and agreements, and the terms, conditions, reservations, and restrictions under which all federal surplus personal property will be donated. Each form must be signed by the chief executive officer of the donee agreeing to these requirements prior to the donation of any surplus property. The donee shall be defined as the unit which is authorized to pay for the item(s) and which otherwise meets the qualification requirements. The certifications and agreements, and the terms, conditions, and reservations and restrictions, will be printed on the reverse side of each program distribution document (invoice), which shall be signed by the chief executive officer of the donee or his certified designee, whose name must be provided to the program office, in writing, over the signature of the chief executive officer of the donee.

B. The following periods of restriction are established by the program on all items of property with a unit acquisition cost of \$5,000 or more, and on all passenger motor vehicles.

1. Passenger motor vehicles—18 months from the date the property is placed in use.

2. Items with a unit acquisition cost of \$5,000 to \$10,000—18 months from the date the property is placed in use.

3. Items with a unit acquisition cost of over \$10,000—30 months from the date the property is placed in use.

4. Aircraft (except combat type) and vessels (50 feet or more in length) with a unit acquisition cost of \$5,000 or

more—60 months from the date the property is placed in use. Such donations shall be subject to the requirements of a conditional transfer document.

5. Aircraft (combat type)—restricted in perpetuity. Donation of combat type aircraft shall be subject to the requirements of a conditional transfer document.

C. For good and sufficient reasons, such as the condition of the property, or the proposed use (secondary utilization, cannibalization, etc.), the program office may reduce the period of restriction on items of property falling within the provisions of §1101.B.3 and 4, at the time of donation, but no less than for a period of 18 months from the date the property is placed in use.

D. The program office, at its discretion, may impose such terms, conditions, reservations, and restrictions as it deems reasonable, on the use of donable property other than items with a unit acquisition cost of \$5,000 or more, and passenger motor vehicles.

E. The program office has imposed the following terms and conditions which shall be applicable during the period of compliance:

1. each passenger motor vehicle and any motorized heavy equipment (such as bulldozers, tractors, etc.) shall bear the official decal of the donee or the name of the donee in letters no less than 3 inches in height on each side of the item during the period of compliance;

2. donees which are defined as state agencies shall maintain those items which are movable, nonconsumable, and have a fair market value of \$250 or more and have been obtained from the federal surplus property program on the inventory control system defined in the State Property Control regulations of August 20, 1976;

3. donees which are not defined as state agencies shall maintain those items which are movable, nonconsumable, and have a fair market value of \$250 or more and have been obtained from the federal surplus property program on an inventory control system during the period of compliance. That inventory control system shall show the location of the items.

F. Failure to comply with the provisions of §1101.E will cause the program office to impose the following penalties on the donee:

1. return of the item to the program at the donee's expense;

2. a fine of 1 percent per day of the acquisition cost of the item shall be imposed on the donee for each day the restriction is not met;

3. the donee shall be declared ineligible as a participant in the program for a period of 90 days;

4. the manager may set aside the condition and penalties in §1101.E and F.1-3, in writing, for good and sufficient reasons.

G. Whenever information is obtained by the manager of the program from utilization reports, periodic surveys, or from other sources which indicate that a donee has failed to place property into use for the benefit acquired or within the prescribed period of time, or that there has been a loss or theft, or related acquisition, use, or disposal of property during the compliance period, the manager shall immediately initiate the

appropriate investigative and compliance action as prescribed in §1903.D. When an investigation proves failure by the donee to comply with this Chapter, the manager shall impose the penalties listed in §1101.F.1-3.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:414 (October 1977), amended LR 9:841 (December 1983), amended by the Property Assistance Agency, LR 24:

§1103. Restrictions of Donations

A. The program may amend, modify, or grant release of any term, condition, reservation, or restriction it has imposed on donated items of personal property, in accordance with the standards prescribed in this plan, provided that the conditions pertinent to each situation have been affirmatively demonstrated to the satisfaction of the program manager and made a matter of public record.

B. The program office will impose on the donation of any surplus item of property, regardless of unit acquisition cost, such conditions involving special handling or use limitations as GSA may determine necessary because of the characteristics of the property.

C. The program office will impose on all donees the statutory requirement that all items donated must be placed in use within one year of donation and be used for the purpose for which it was donated for one year after being placed in use or otherwise returned to the program while the property is still usable.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:415 (October 1977), amended LR 9:842 (December 1983), amended by the Property Assistance Agency, LR 24:

Chapter 13. Nonutilized Donable Property

§1301. Methods of Disposal

A. All property in the possession of the program office which cannot be utilized by eligible donees shall be reported to GSA for disposal authorization, in accordance with FPMR 101-44.205. In accordance with this regulation, the program office shall either:

1. transfer the property to the program of another state or to a federal agency;
2. sell the property by public sale;
3. abandon or destroy the property.

B. In the event of disposal by transfer to an agency in another state or by public sale, the program office may seek such reimbursement as is authorized in accordance with FPMR 101-44.205.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:415 (October 1977), amended LR 9:842 (December 1983), amended by the Property Assistance Agency, LR 24:

Chapter 15. Fair and Equitable Distribution

§1501. Methods for Distribution and Utilization

A. General Policy. The program office shall arrange for a fair and equitable offering of available surplus property to the eligible units in the state, based upon their relative needs and

resources and their ability to utilize the property in their program.

B. Determinations

1. The following criteria shall be used by the manager of the program in determining the relative needs and resources of donees and their ability to utilize the property:

a. the population of the parish of the donee, based on the current Preliminary Population Estimates for Louisiana by Parish. Source: Louisiana Tech University, official depository of U.S. Bureau of Census materials;

b. the per capita income of the parish of the donee. Source: current Bureau of Economic Analysis, Department of Commerce;

c. the percent of the average employed persons to the population of the parish of the donee. Source: Research and Statistics Unit, Department of Employment Security, current; and Louisiana Tech University, current Preliminary Population Estimates by Parish;

d. the daily average school attendance of the parish of the donee. Source: Louisiana Department of Education, current;

e. the number of hospital beds (short-term general hospitals) of the parish of the donee. Source: current Louisiana Hospitals Statistics of the State Office of Comprehensive Health Planning;

f. details on the scope of the donees' program, financial information, and specific items of property needed.

2. Other factors to be taken into consideration will include:

a. critical need on the part of the applicant due to a state of emergency or emergency, such as fire, flood, hurricane, etc.;

b. quantity and/or value of surplus property received by donee to date, and specific major items of equipment previously received;

c. interest and expressions of need on the part of the donee in the property available;

d. ability and willingness demonstrated by donee to inspect and select property, timeliness in removing property from warehouse, or a request for direct shipment from a federal holding agency;

e. financial ability of donee to acquire property, repair or renovate property (if necessary), and maintain the property.

C. Applications for Surplus Property not in Inventory

1. A request for a specific item of property may be submitted by the chief executive officer, or his designee, of the donee to the manager of the program on a Request for Property form when the specific item is not in the inventory of the program.

2. The Request for Property form shall be the only means of requesting property by the donee, in order that the manager may use the same information in determining priority on competing requests for items. Priority ratings by the manager shall be made, utilizing the formula based on the criteria shown in §1501.D, and shall be based on the information submitted by the donee on the Request for Property form.

3. Falsification of any information on the Request for Property form submitted by the donee shall cause the donee's eligibility to participate in the program to be revoked for a period of 12 months.

D. Formula for Determining the Property Request Priorities

1. The program office shall use this formula for determining which donee shall receive an item for which there are competing requests. The information submitted by the donee on the Request for Property form shall be the main basis for the rating. The manager of the program shall have the authority to modify the rating formula on a quarterly basis and to delete and/or add categories, as are necessary to maintain fair and equitable distribution among the donees. The higher the donee rating, the higher the priority the donee will have for the item utilizing the formula.

2. Population by parish of the donee:

Under 10,000	10	50,001-100,000	5
10,001-20,000	9	100,001-150,000	4
20,001-30,000	8	150,001-200,000	3
30,001-40,000	7	Over 200,001	2
40,001-50,000	6		

3. Per capita income by parish of the donee:

Under \$3,000	10	\$3,901-\$4,100	5
\$3,001-\$3,300	9	\$4,101-\$4,300	4
\$3,301-\$3,500	8	\$4,301-\$4,500	3
\$3,501-\$3,700	7	Over \$4,501	2
\$3,701-\$3,900	6		

4. Percentage of average employed persons to the population by parish of the donee:

Less than 10%	10	30%-35%	5
10%-15%	9	35%-40%	4
15%-20%	8	40%-45%	3
20%-25%	7	Over 45%	2
25%-30%	6		

5. Daily school attendance by parish of the donee:

Under 5,000	10	40,000-60,000	5
5,001-10,000	9	60,001-80,000	4
10,001-20,000	8	80,001-100,000	3
20,001-30,000	7	over 100,000	2
30,001-40,000	8		

6. Number of hospital beds by parish of the donee:

0-25	5
26-50	4

51-200	3
201-500	2
over 500	1

- 7. State of emergency: 10
- 8. Emergency: 20
- 9. Unencumbered funds available to acquire property: Yes-10; No-0.
- 10. Unencumbered funds available to repair, renovate (if necessary), and maintain property: Yes-10; No-0.
- 11. Ability and willingness demonstrated by donee to inspect and select property, and timeliness in removing property from warehouse: 0-10.
- 12. Scope of donee's program and utilization of the item for the benefit of the residents: 0-10.
- 13. Interest and expressions of need on the part of the donee in the item: 0-10.
- 14. Direct pickup request from the federal holding agency by the donee: 5.
- 15. Value of surplus property received by donee to date:

Federal Acquisition Cost	Rating
0-\$10,000	10
\$10,001-\$25,000	8
\$25,001-\$50,000	6
\$50,001-\$100,000	4

16. Specific major items of equipment previously received: 0-10.

E. Selection and Shipment of Donable Property

1. The manager of the program shall recommend to GSA the certification of donee screeners, as are qualified and needed, in accordance with FPMR 101-44.116.

2. The program office shall, insofar as practical, on items requested on the Request for Property form, arrange for inspection and release of property directly from the holding agencies by the donee at minimal service charges to cover legitimate costs, as detailed in Chapter 9 of this plan, when requested by the donee.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:415 (October 1977), amended LR 9:842 (December 1983), amended by the Property Assistance Agency, LR 24:

Chapter 17. Eligibility §1701. Potential Donees

The program office will contact and instruct all known potential donees in the state on the procedures to follow to establish their eligibility to participate in the surplus property program. A listing of the potential donees in the state shall be established by using the standards and guidelines in FPMR 101-44.207, as well as the following guidelines:

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:417 (October 1977), repromulgated LR 9:843

(December 1983), amended by the Property Assistance Agency, LR 24:

§1703. Public Agencies

A. The Louisiana Secretary of State's *Roster of Officials*, which lists cities, towns, parishes, the judiciary, state departments, divisions, councils, boards, commissions, institutions, Indian tribes, etc.

B. The executive officers of the above units will be contacted for a listing of local departments, divisions, commissions, and councils, indicating their different activities and functions.

C. The Economic Development and Planning Commissions will be contacted for lists of their recipients who might be qualified.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:417 (October 1977), repromulgated LR 9:843 (December 1983), repromulgated by the Property Assistance Agency, LR 24:

§1705. Nonprofit, Tax-Exempt Units

A. State departments of education, higher education, public health, mental health, community affairs, youth services, and others will be asked for listings of all local units approved or licensed by their departments.

B. Existing listings of units now eligible to participate in the surplus property program.

C. National, regional, and state organizations and associations.

D. Inquiries, letters, telephone calls, etc., received relative to eligibility.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:417 (October 1977), amended LR 9:844 (December 1983), repromulgated by the Property Assistance Agency, LR 24:

§1707. Promulgating the Program

Contacts will be made by letter, telephone calls, general meetings, and conferences with the groups in §1703 and §1705, supplemented when necessary by news releases, informational bulletins, and attendance at conferences and meetings to discuss the surplus property program.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:417 (October 1977), amended LR 9:844 (December 1983), repromulgated by the Property Assistance Agency, LR 24:

§1709. Requirements for Eligibility

Each unit will be required to file with the program office, as a condition of eligibility:

1. an Application, Certification, and Agreement form, signed by the chief executive officer of the donee, accepting the terms and conditions under which property will be transferred;

2. a written authorization, signed by the chief executive officer or executive head of the donee activity, or a resolution by the governing board or body of the donee activity, designating one or more representative to act for the applicant,

obligate any necessary funds, and execute distribution documents;

3. assurance of compliance indicating acceptance of civil rights and nondiscrimination on the basis of sex or handicap in accordance with GSA regulations and requirements;

4. directory information, including the applicant's legal name, address, and telephone number, and status as a public agency or nonprofit, tax-exempt educational or public health unit;

5. program details and scope, including different activities and functions;

6. a listing of specific equipment, material, vehicles, machines, or other items in which the donee would be interested in the future;

7. financial information, if necessary, for the evaluation of relative needs and resources;

8. proof of tax-exemption under Section 501(c)(3) of the *Internal Revenue Code* of 1954 (for nonprofit units only);

9. proof that the applicant is approved, accredited, or licensed in accordance with FPMR 101-44.207.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:417 (October 1977), amended LR 9:844 (December 1983), amended by the Property Assistance Agency, LR 24:

§1711. Recertification of Eligibility

All approvals of eligibility will be updated every three years except those programs that are certified, approved, and/or licensed annually, which must be updated every year.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:417 (October 1977), repromulgated LR 9:844 (December 1983), amended by the Property Assistance Agency, LR 24:

Chapter 19. Compliance and Utilization

§1901. Scope

The program office shall conduct utilization reviews to ensure compliance by donees with the terms, conditions, reservations, and restrictions imposed on:

1. any property not placed in use within one year from the date of acquisition, and not used for a period of one year;

2. any passenger motor vehicle;

3. any item of property valued at \$5,000 or more;

4. any item having characteristics that require special handling or use limitations imposed by GSA.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:417 (October 1977), repromulgated LR 9:844 (December 1983), amended by the Property Assistance Agency, LR 24:

§1903. Methods

A. The program office will arrange to visit each donee receiving major items of property, (i.e., items with a unit acquisition cost of \$5,000 or more and passenger motor vehicles with federal and/or state restrictions on the use of the

property at least once during the period of restriction. All such visits will be made by the compliance/utilization audit staff or administration of the program.

B. Written reports of utilization from the chief executive officer of the donee will be requested during the periods of restricted activity or in the event of unusually heavy work loads at the program office.

C. Each visit on compliance utilization will encompass:

1. general utilization of property, including items with an acquisition cost of under \$5,000 and items listed under §1901.D;
2. compliance with all terms, conditions, reservations, and restrictions imposed on the use of the property;
3. any evidence of oversupply or stockpiling;
4. application advice for property needed;
5. effectiveness of the surplus property program;
6. recommendations for better service.

D. A report will be prepared on each compliance visit and submitted to the manager for approval. Follow-up action on noncompliance or nonuse will be taken, as necessary. Instances of suspected fraud or misuse will be reported to the Federal Bureau of Investigation and GSA. Program personnel will assist in any subsequent investigations.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:418 (October 1977), amended LR 9:844 (December 1983), amended by the Property Assistance Agency, LR 24:

Chapter 21. Consultation with Advisory Bodies, Public and Private Groups

§2101. Representation of the Program

A. The program office will arrange for and participate in local, regional, or statewide meetings of public and private organizations and associations which represent potential donees to disseminate information on the program, discuss procedures and problems, and obtain recommendations on determining relative needs, resources, and the utilization of property and how the program office can provide more effective service. The program office will regularly provide information on the donation program to state and local officials, and to heads of nonprofit institutions and organizations, and will actively participate in, and, upon request, provide speakers for conferences and meetings held by public and private organizations.

B. The program office, in consultation with advisory bodies and public and private groups, will invite eligible donees to submit expressions of interest and need for property items so that the program office may advise GSA of such requirements, including requests for specific items of property.

C. A Louisiana Federal Property Assistance Program advisory board shall be established by the manager of the program. It shall be composed of one representative from each of the eight areas listed in the program Quarterly Donation Report of Surplus Personal Property. The manager shall select the representative who is felt to best represent that segment of the donees. Advisory board members shall advise the manager

on means to improve the program in the areas which they represent. The representatives shall serve without pay or compensation.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:418 (October 1977), amended LR 9:844 (December 1983), amended by the Property Assistance Agency, LR 24:

Chapter 23. Audits

§2301. Reconciling Financial Records

A. At the close of each month the program office will conduct an internal audit which will reconcile the warehouse and office records on inventory value, disposals, property received, and property issued.

B. Annually, the audit staff of the program will conduct an audit which shall include, in addition to fiscal affairs, a review of the conformance of the program with the provisions of this plan of operation and the requirements of 41 CFR 101.44.

C. An external audit will be performed at least once every two years by the legislative auditor or by an independent certified public accountant or independent licensed public accountant who is certified or licensed by a regulatory authority of the state or other subdivision of the United States. It shall include an audit of all fiscal affairs and a review of the conformance of the program with the provisions of this plan of operation and the requirements of 41 CFR 101-44. A copy of the audit will be furnished by the program office, immediately upon completion, to the GSA regional office. The manager will advise the GSA regional office of all corrective actions taken, with respect to any exceptions or violations indicated by the audit. It is agreed that GSA may, for appropriate reasons, conduct its own audit of the program, following due notice to the governor of the reasons for such audit, and may visit the program office for purposes of reviewing the program's operation, when it deems it appropriate.

D. Financial records and all other books and records of the program shall be available for inspections by representatives of GSA, the general accounting office, or other authorized federal activities.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:418 (October 1977), amended LR 9:844 (December 1983), amended by the Property Assistance Agency, LR 24:

§2303. Donee Audits

Any state or local government, nonprofit organization or educational institution that receives item(s) valued at \$25,000 or more annually from the Donation of Federal Surplus Personal Property Program shall have an audit performed in accordance with the Office of Management and Budget Circular A-133. A copy of the audit shall be sent to the program office immediately after the donee receives the audit.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Property Assistance Agency, LR 24:

Chapter 25. Cooperative Agreements

§2501. Types of Agreements

The program has the authority to enter into such cooperative agreements with federal agencies and other state agencies as may be necessary, in accordance with FPMR 101-44.206. Such agreements may involve, but not be limited to:

1. use of property by the program;
2. overseas property;
3. use of federal telecommunications system;
4. interstate transfers;
5. others, as may be necessary.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:418 (October 1977), repromulgated LR 9:845 (December 1983), amended by the Property Assistance Agency, LR 24:

Chapter 27. Liquidation

§2701. Procedures and Time Frame

A. In the event of liquidation, or at the time determination has been made by state officials to liquidate the program, a liquidation plan will be prepared in accordance with FPMR 101-44.201.c.14.

B. The liquidation plan shall include:

1. reasons for liquidation;
2. schedule and estimated date of termination;
3. method of disposal of surplus property on hand, consistent with the provisions of FPMR 101.44.205;
4. method of disposal of agency's physical and financial assets;
5. retention of books and records for a five-year period following liquidation.

C. Such plan will be submitted to GSA and its approval secured prior to the beginning of liquidation.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:419 (October 1977), amended LR 9:845 (December 1983), amended by the Property Assistance Agency, LR 24:

Chapter 29. Forms

§2901. Types and Utilization

A. The distribution document (invoice) shall be used as the standard issue document and the invoice for all issues of surplus property to eligible donees or other states. The terms and conditions shall be printed on the back of each prenumbered distribution document (invoice).

B. Certain specific items require conditional transfer documents in addition to the standard forms:

1. noncombat type aircraft with a unit acquisition cost of over \$5,000 require a conditional transfer document;
2. combat type aircraft with a unit acquisition cost of over \$5,000 require a conditional transfer document;
3. vessels over 50 feet in length with a unit acquisition cost of over \$5,000 require a conditional transfer document.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:419 (October 1977), amended LR 9:845 (December 1983), amended by the Property Assistance Agency, LR 24:

Chapter 31. Records

§3101. Time Frame for Retention

All official records of the program will be retained for no less than five years, except records involving property in compliance status for six years or longer will be kept for at least one year after the case is closed.

AUTHORITY NOTE: Promulgated in accordance with 41 CFR 101-44 and P.L. 94-519.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Federal Property Assistance Agency, LR 3:419 (October 1977), repromulgated LR 9:845 (December 1983), amended by the Property Assistance Agency, LR 24:

Interested persons may submit written comments within 20 days of publication to Irene C. Babin, Director, Louisiana Property Assistance Agency, Box 94095, Baton Rouge, LA 70804-9095.

Irene C. Babin
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Federal Property Assistance Program

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

There are no estimated implementation costs to state or local governmental units from the adoption of the proposed amendments. The amendments increase the value of property requiring a compliance audit from \$3,000 to \$5,000 and reduce the retention time for program files from six years to five years. The amendments change the program name to the Federal Property Assistance Program pursuant to Executive Order MJF 97-19 and the title of the administrator from director to program manager. The compliance audit and file retention changes reflect current practices. The plan of operation had to be updated to show these practices.

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

The proposed amendments will have no estimated effect on revenue collections of state or local governmental units.

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

There will be no estimated costs or economic benefits to directly affected persons or nongovernmental groups from the adoption of the proposed amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition from the proposed amendments.

Irene C. Babin
Director
9710#058

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Office of the Governor Patient's Compensation Fund Oversight Board

Financial Responsibility:
Insurance (LAC 37:III.505)

Under the authority of R.S. 40:1299.44(D)(3), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Patient's Compensation Fund Oversight Board advertises its intent to amend LAC 37:III.505 as follows, which will incorporate existing practice by clarifying the definition of deductible within the meaning of the rules.

Title 37

INSURANCE

Part III. Patient's Compensation Fund Oversight Board

Chapter 5. Enrollment with the Fund

§505. Financial Responsibility: Insurance

- A. ...
- B. To be acceptable as evidence of financial responsibility pursuant to §505, an insurance policy:
1. - 3. ...
 4. shall be nonassessable;
 5. shall not be subject to a retention or deductible payable by the insured health care provider, with respect to liability, costs of defense or claim adjustment expenses, in excess of \$25,000, provided that an insurance policy provision which requires reimbursement of the insurer by the insured of indemnification and/or expenses and which provides that the insurer remains directly and primarily responsible to the patient for the amount thereof shall not be considered a retention or deductible and shall, in that regard, be deemed to satisfy the financial responsibility requirements of §505; and
 6. must, by provision or endorsement, obligate the insurer to give immediate notice to the executive director of cancellation, termination, or lapse of the policy, or of modification of the scope or limits of its coverage by endorsement or otherwise.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:170 (February 1992), amended LR 21:394 (April 1995), LR 23:68 (January 1997), LR 24:

All interested persons are invited to submit written comments on the amended rule. Such comments should be submitted no later than November 20, 1997 at 4:30 p.m., to Michael A. Walsh, Executive Director, Patient's Compensation Fund Oversight Board, 650 North Sixth Street, Baton Rouge, LA 70802 or (504) 342-6053.

Michael A. Walsh
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Financial Responsibility: Insurance

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rules formalize procedures and requirements currently utilized by the Patient's Compensation Fund by clarifying the definition of *deductible* within current rules. It is estimated that the costs to implement the new rules will not exceed \$2,000. The costs will include printing, copy charges, administrative overhead expenses, and legal fees which will be paid by the Patient's Compensation Fund, R.S. 40:1299.44 et seq., from statutorily dedicated funds available in the FY 97-98 budget.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units from implementation of the proposed rules.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs or economic benefits to directly affected persons or nongovernmental groups. These proposed rules are a formalization of procedures and requirements currently utilized by the Patient's Compensation Fund, as set forth in the Louisiana Medical Malpractice Act, R.S. 40:1299.41 et seq.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The Patient's Compensation Fund Oversight Board anticipates no effect on either competition or employment as a result of adopting the new proposed rules. These new proposed rules are a formalization of procedures and requirements currently used by the fund.

Michael Walsh
Executive Director
9710#066

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals Board of Veterinary Medicine

Consulting and Providing Legend and Certain Controlled Substances (Telazol) (LAC 46:LXXXV.704)

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.704 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

The proposed amendments to §704 provide conditions under which an animal control agency, which is operated by a state or local governmental agency or which is operated by any duly incorporated humane society which has a contract with a local government agency to perform animal control services on behalf of the local governmental agency, may administer the drug Telazol (tiletamine HCL and zolazepam HCL), a class III scheduled drug, to an animal for the sole

purpose of animal capture and/or animal restraint. These conditions include requirements for the animal control agency to have a staff or consulting veterinarian who is licensed to practice veterinary medicine by the Board of Veterinary Medicine and who is registered with the Drug Enforcement Administration at the shelter location where the drugs will be stored and administered, who obtains, and who is responsible for, the Telazol (tiletamine HCL and zolazepam HCL) used; and a storage and use plan for Telazol (tiletamine HCL and zolazepam HCL) which meets or exceeds the requirements of all federal drug enforcement agencies, which include the requirement for storage in a securely locked, substantially constructed cabinet, and the standards of record keeping found in Chapter 7 of these rules shall be submitted to the Board of Veterinary Medicine for approval.

These amendments also describe the responsibilities of the licensed veterinarian who may choose to assist an animal control agency.

Subsection numbering is changed to accommodate substantive changes.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§704. Consulting and Providing Legend and Certain Controlled Substances

A. Legend Drugs

1. When an animal control agency which is operated by a state or local governmental agency or which is operated by any duly incorporated humane society which has a contract with a local governmental agency to perform animal control services on behalf of the local governmental agency seeks to administer legend drugs to an animal for the sole purpose of animal capture and/or animal restraint, the animal control agency must have a staff or consulting veterinarian who is licensed to practice veterinary medicine by the Board of Veterinary Medicine and who obtains the legend drugs.

2. Said legend drugs must be stored and administered under the general supervision of the licensed veterinarian. General supervision means that the licensed veterinarian must provide the employee(s) of the animal control agency with written instructions and follow-up assistance on the proper storage, use and administration of the drug(s) being provided.

3. The licensed veterinarian may submit to the board, for review and/or approval, a written protocol of his supervision of the animal control agency's employees.

4. The licensed veterinarian shall also require the animal control agency's employees to maintain record keeping logs which shall include, but would not be limited to, the following:

- a. date of each use of a legend drug;
- b. species of animal;
- c. estimated weight of animal;
- d. dose administered;
- e. name of animal control officer administering the drug.

5. Said records should be reviewed by the supervising veterinarian on at least a quarterly basis.

B. Telazol (Tiletamine HCL and Zolazepam HCL)

1. When an animal control agency which is operated by a state or local governmental agency or which is operated by any duly incorporated humane society which has a contract with a local government agency to perform animal control services on behalf of the local governmental agency seeks to administer the drug Telazol (tiletamine HCL and zolazepam HCL), a class III scheduled drug, to an animal for the sole purpose of animal capture and/or animal restraint, the animal control agency must have a staff or consulting veterinarian who is licensed to practice veterinary medicine by the Board of Veterinary Medicine and who is registered with the Drug Enforcement Administration at the shelter location where the drugs will be stored and administered, who obtains, and who is responsible for, the Telazol (tiletamine HCL and zolazepam HCL) used.

2. A storage and use plan for Telazol (tiletamine HCL and zolazepam HCL) which meets or exceeds the requirements of all federal drug enforcement agencies, which include the requirement for storage in a securely locked, substantially constructed cabinet, and the standards of record keeping found in Chapter 7 of these rules shall be submitted to the Board of Veterinary Medicine for approval.

a. This usage plan shall include a requirement that each use of Telazol (tiletamine HCL and zolazepam HCL) shall be documented for review by the licensed veterinarian responsible for the purchase and inventory of that drug.

b. This usage plan shall include a requirement that this documentation include, but not be limited to:

- i. date of each use of the drug;
- ii. species of animal;
- iii. estimated weight of animal;
- iv. dose administered;
- v. name of animal control officer administering the drug;
- vi. a constant (running) inventory of the drug present at the facility.

c. This usage plan shall include a requirement that a review of each use of Telazol (tiletamine HCL and zolazepam HCL) shall be made by the responsible veterinarian and that said veterinarian shall initial the usage log entries to indicate this review. A review of the usage plan shall be made at least quarterly and the quantities of drug used and on hand shall be tallied and authenticated. Any variance shall be noted in the log and steps should be taken and documented to correct the problem.

d. This usage plan shall include a requirement that any removal of Telazol from the securely locked, substantially constructed cabinet shall be in minimal amounts, shall be maintained in a locked container when not in use, and shall be documented in a manner to include, but not be limited to:

- i. a signed log indicating the person removing the drug;
- ii. the date on which the drug was removed;
- iii. an accounting for all drug used and the amount returned;
- iv. the date on which the remaining drug was returned and the signature of the person returning it.

C. A licensed veterinarian who chooses to assist an animal control shelter in the methods prescribed in §704 shall be solely responsible for which drugs he or she is willing to provide and in what quantities.

D. Section 704 does not pertain to any drug(s) listed in any DEA classification schedule (also known as controlled drugs), except Telazol (tiletamine HCL and zolazepam HCL). Section 704 specifically does not apply to sodium pentobarbital which is regulated for animal control agency use in R.S. 37:1551-1558.

E. The definitions found in §700 of this Chapter shall apply to all terms used in §704.

F. Failure of a licensed veterinarian to comply with any and all provisions of §704 shall be considered a violation of the rules of professional conduct. Said veterinarian may be subject to disciplinary action as provided for in R.S. 37:1518 and 1526.

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 20:666 (June 1994), amended LR 24:

Interested parties may submit written comments to Charles B. Mann, Executive Director, Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on November 24, 1997.

A public hearing on the proposed changes will be held on November 24, 1997, at 9 a.m. at the office of the Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Charles B. Mann
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Consulting and Providing Legend and Certain Controlled Substances (Telazol)

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

There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendments (estimated \$200). The veterinary profession will be informed of this proposed rule change via the board's regular newsletter, which is already a budgeted cost of the board.

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. There will be no revenue impact as no increase in fees will result from these amendments.

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

There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on employment and competition.

Charles B. Mann
Executive Director
9710#055

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Veterinary Medicine

Specialty List (LAC 46:LXXXV.1063)

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.1063 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

This amendment is intended to clarify the use of the term *specialist* as it applies to veterinary practice by clearly providing that a veterinarian may not state or imply that he is a certified or recognized specialist unless he is board certified in such specialty.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 10. Professional Conduct

§1063. Specialty List

A. ...

B. A veterinarian may not use the term *specialist* for an area of practice for which there is not AVMA recognized certification, nor may a veterinarian state or imply that he is a certified or recognized specialist unless he is board certified in such specialty.

C. - D. ...

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: 16:232 (March 1990), amended LR 23:968 (August 1997), LR 24:

Interested parties may submit written comments to Charles B. Mann, Executive Director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on November 24, 1997.

A public hearing on the proposed changes will be held on November 24, 1997, at 9 a.m. at the office of the Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Charles B. Mann
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Specialty List**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs or savings to state or local governmental units except for those associated with publishing the amendments (estimated \$80). The veterinary profession will be informed of this proposed rule change via the board's regular newsletter, which is already a budgeted cost of the board.
- 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. There will be no revenue impact as no increase in fees will result from these amendments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on employment and competition.

Charles B. Mann
Executive Director
9710#054

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Sanitary Code—Milk and Milk Products (Chapter VII)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:4A(1) and R.S. 40:5, intends to amend rules contained in Chapter VII pertaining to Grade A raw milk for pasteurization certified for interstate milk shipment and Grade A pasteurized milk certified for interstate milk shipment, by adding two new sections as set forth below:

Add Section 7:091.1 to read:

7:091.1 Grade A Raw Milk for Pasteurization Certified for Interstate Milk Shipment. Grade A raw milk for pasteurization certified for interstate milk shipment is raw milk produced on dairy farms in Louisiana that meets all requirements of the Sanitary Code, State of Louisiana, as well as the requirements for Grade A as set forth by the National Conference on Interstate Milk Shipments (NCIMS). In cases of "conflicting provisions," the stricter codal requirement must be met.

Raw milk produced in Louisiana in substantial compliance with the provisions in this Section may be certified by the state health officer for inclusion in the U.S. Food and Drug Administration Interstate Milk Shippers List.

* * *

Change 7:094 to correct a typographical error pertaining to the grade of milk:

7:094 Grade A Pasteurized Milk. Grade A pasteurized milk is Grade A raw milk for pasteurization which has been pasteurized, cooled, and placed in the final container in a milk plant conforming with all of the sections of sanitation in this Chapter. In all cases, milk shall show efficient pasteurization as evidenced by a satisfactory phosphatase test. At no time after pasteurization and until delivery shall milk have a bacterial plate count exceeding 20,000 per milliliter or a coliform count exceeding 10 per milliliter in more than one of the last four samples.

* * *

Add Section 7:094.1 to read:

7:094.1 Grade A Pasteurized Milk Certified for Interstate Milk Shipment. Grade A pasteurized milk certified for interstate milk shipment is pasteurized milk certified for interstate milk shipment that meets all Grade A requirements of the Sanitary Code, State of Louisiana as well as the requirements for Grade A as set forth by the National Conference on Interstate Milk Shipments (NCIMS). In cases of "conflicting provisions," the stricter codal requirement must be met.

Pasteurized milk processed in Louisiana in substantial compliance with the provisions in this Section may be certified by the state health officer for inclusion in the U.S. Food and Drug Administration Interstate Milk Shippers List.

* * *

Interested persons may submit written comments to Richard F. Graham, Administrator, Milk and Dairy Unit, Box 60630, New Orleans, LA 70160 by the close of business on Friday, November 14, 1997. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing will be held on Wednesday, November 26, 1997 beginning at 10 a.m. in the Fourth Floor Conference Room for the Office of Public Health, 1201 Capitol Access Road, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Milk, Milk Products,
and Manufactured Milk Products**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no significant estimated implementation costs (savings) to state or local units. The agency will, however, incur a \$40 cost for publication of this rule in the *Louisiana Register*.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units.

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

This rule will not directly affect the dairy industry, since these procedures have been in effect since 1950.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Bobby P. Jindal
Secretary
9710#108

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Cochlear Device Implantation

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing to adopt the following rule, as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The bureau seeks to establish coverage and clinical criteria for cochlear implantation for recipients with profound-to-total bilateral hearing loss under the Medicaid program and is proposing the following rule for adoption. The following criteria have not previously been promulgated under the Administrative Procedure Act.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to establish the following coverage and criteria for cochlear implantation for recipients 2 years of age through 20 years of age with profound-to-total bilateral hearing loss:

I. General Provisions for Cochlear Device Implantation

A. General Criteria

1. Recipient must:

- a. have a profound bilateral sensorineural hearing loss;
- b. be a profoundly deaf child age 2 years or older or be a post-linguistically deafened adult through the age of 20 years;
- c. receive no significant benefit from hearing aids;
- d. have high motivation to be part of the hearing community;
- e. have appropriate expectations.

B. Specific Criteria

1. Children 2 Years through 9 Years

a. Requestor must:

- (1) document profound-to-total bilateral sensorineural hearing loss. (*Profound-to-total* meaning hearing loss which is not alleviated by amplification or vibrotactile devices);

(2) document that little or no benefit from a hearing aid was obtained for the implanted ear, as measured by at least one closed set and one open set test;

(3) provide documentation that has demonstrated auditory responses to brainstem evoked auditory response or electrocochleography. The otacoustic emission test, if given, must be absent;

(4) provide documentation that one closed set and one open set must be administered from the following when age and language are appropriate:

(a) CID ESP BATTERY (Closed Set)

ESP LOW VERBAL

Pattern perception-performance 40 percent or below;
Spondee identification-performance 40 percent or below;

Monosyllable identification-performance 40 percent or below.

STANDARD

Pattern perception-performance 40 percent or below;
Spondee identification-performance 40 percent or below;

Monosyllable identification-performance 40 percent or below.

(b) MTS-(optional)-Closed Set

MTS pattern perception-performance 40 percent or below;

Word-performance 40 percent or below.

(c) LIP-READING (one of two must be administered)

Craig Words;

CID Sentences

(d) OPEN SET TESTS-performance 35 percent or below (administer at least one)

Nu-Chips GASP Words;

Spondee Recognition;

CID Sentences;

PBX Words;

PBX Phonemes.

(e) SPEECH PRODUCTION/LANGUAGE;

NOTE: Appropriate tests must be administered. Results are used for counseling and post-implant comparisons only.

b. Requestor must document the following:

(1) radiological studies which demonstrate no intracranial anomalies or malformations which would contraindicate implantation of the receiver-stimulator or the electrode array;

(2) no medical contraindications for undergoing implant surgery or post-implant rehabilitation;

(3) that families and candidates should be well-motivated and possess appropriate post-implant expectations. (*Appropriate* is construed to mean that the family does not expect the recipient's hearing to be normal.);

(4) that candidates' families are prepared and willing to participate in and cooperate with pre- and post-implant assessment and rehabilitation programs.

c. There must be a facility which is accessible to the recipient and staffed with licensed personnel competent to perform complete cochlear implant rehabilitation, including adjusting and testing of equipment and auditory training.

2. Children 10 Years through 17 Years:

a. requestor must document the following:

(1) profound-to-total bilateral sensorineural hearing loss. (*Profound-to-total* meaning hearing loss which is not alleviated by amplification or vibrotactile devices.);

(2) radiological studies which demonstrate no intracranial anomalies or malformations which would contraindicate implantation of the receiver-stimulator or the electrode array;

(3) no medical contraindications for undergoing implant surgery or post-implant rehabilitation;

(4) the candidate has received consistent exposure to effective auditory stimulation in conjunction with oral method of education and auditory training;

(5) that candidate utilizes spoken language as his primary mode of communication through one of the following: an oral/aural (re)habilitational program; a total communications educational program with significant oral/aural training;

(6) that the candidate has demonstrated auditory responses to brainstem evoked auditory response recording or electrocochleography and otacoustic emission test;

(7) that little or no benefit from a hearing aid for the implanted ear, as defined by obtaining less than 5 percent on open-set speech recognition measures and/or chance performance on closed-set segmental speech tests;

(8) that the individual has at least six months experience with a hearing aid or vibrotactile device.

Note: There must be a facility which is accessible to the recipient and staffed with licensed personnel competent to perform complete cochlear implant rehabilitation, including adjusting and testing of equipment and auditory training.

3. Adults 18 Years through 20 Years

a. Adult candidates for implant should be post-linguistically deafened with severe to profound bilateral sensorineural hearing loss (*Profound-to-total* meaning hearing loss which is not alleviated by amplification or vibrotactile devices.).

b. Requestor must document the following:

(1) radiological studies which demonstrate no intra cranial anomalies or malformation which would contraindicate implantation of the receiver-stimulator or the electrode array;

(2) no medical contraindications for undergoing implant surgery or post-implant rehabilitation;

(3) the candidate has received consistent exposure to effective auditory stimulation or auditory communication;

(4) the candidate utilizes spoken language as his primary mode of communication through one of the following: an oral/aural (re)habilitation program; a total communications educational program with significant oral/aural training;

(5) that the candidate has demonstrated auditory responses to brainstem evoked auditory response recording or electrocochleography and otacoustic emission test;

(6) that the recipient has had at least six months' experience with hearing aids or vibrotactile device;

(a) Performance 35 percent or below on MAC battery subtests; four-choice spondee; vowel, medical, consonant, monosyllabic words;

(b) CID sentences (Speech reading only and speech reading + sound), should be administered (used for post data);

(c) Iowa Sentences Without Context-performance 35 percent or below.

Note: There must be a facility which is accessible to the recipient and staffed with licensed personnel competent to perform complete cochlear implant rehabilitation, including adjusting and testing of equipment and auditory training.

4. Multi-handicapped children. Criteria are the same as for other age groups.

II. Prior Authorization

All implantations (CPT code 69930) must be prior authorized. The request to perform surgery shall come from the multi disciplinary team who assessed the recipient's disability and determined him/her to be a possible candidate for implantation. The team's decision and the results of all pre-operative testing (audiogram, tympanogram, acoustic reflexes, speech and language evaluation, social evaluation, etc.) shall be submitted simultaneously to the prior authorization unit for review.

NOTE: Only one device per lifetime per eligible recipient shall be reimbursed.

Ongoing speech, language and hearing therapy services for cochlear implant recipients must be prior authorized just as all other rehabilitation services.

III. Noncovered Expenses

The following expenses related to the maintenance of the cochlear device are the responsibility of either the recipient or his family or caregiver(s):

a. all costs for service contracts and/or extended warranties;

b. all costs for insurance to protect against loss and theft;

c. all costs for upgrades and repairs to the component parts of the device; and

d. all costs for cords and batteries.

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

A public hearing will be held on this matter on Tuesday, November 25, 1997 at 9:30 a.m. in the auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Cochlear Device Implantation

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

It is anticipated that implementation of this proposed rule will result in increased expenditures of approximately \$11,587 for

SFY 1997-98; \$22,972 for SFY 1998-99; and \$23,662 for SFY 1999-2000. Included is \$100 for the state's share of printing this rule.

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

It is anticipated that federal revenue collections for implantation of cochlear devices will be \$27,367 for SFY 1997-98; \$54,533 for SFY 1998-99; and \$56,168 for SFY 1999-2000. Included is \$100 for the federal share of printing this rule.

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

As a result of established clinical criteria for cochlear implant devices, enrolled Medicaid providers performing cochlear device implantations will experience combined state and federal reimbursements of approximately \$38,954 for SFY 1997-98; \$77,505 for SFY 1998-99; and \$79,830 for SFY 1999-2000. Included is \$200 for printing of this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9710#117

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Early Periodic Screening, Diagnosis,
and Treatment (EPSDT) Program
Reimbursement for Rehabilitative Services**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program, as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule shall be adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for follow-up medical screening and rehabilitation services under the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) Program for recipients under 21 years of age, in accordance with a periodicity schedule established under federal and state guidelines. Effective July 10, 1996, the reimbursement rates were reduced by 10 percent for rehabilitation services which include evaluation and treatment services for speech, occupational, physical, and psychological therapies and audiological services (*Louisiana Register*, Volume 23, Number 4).

The department now proposes to revise the reimbursement methodology for rehabilitation services under the EPSDT program to be uniform with the rates for comparable rehabilitation services provided in other settings. All school boards that participate in Medicaid as EPSDT health services providers must submit a signed school system certification of

understanding (PE-50 EPSDT provider supplement agreement "C") in order to receive the new reimbursement rates for these services. The new reimbursement rates will not be activated until a completed PE-50 EPSDT provider supplement agreement "C" form has been received from all of the school boards enrolled as EPSDT health services providers.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing revises the reimbursement rates for rehabilitation services provided under the Early Periodic Screening Diagnosis and Treatment (EPSDT) Program for the following procedure codes:

Procedure Code	Description	New Rate
X0411	OT Evaluation, Re-Evaluation	\$51.00
97504	OT Orthotics Training, each 15 min.	\$8.00
97530	Therapeutic Activity, 15 min.	\$8.00
97750	OT Phys. Performance Test, 15 min.	\$8.00
X0404	Physical Therapy Evaluation	\$54.00
97110	PT Therapeutic Procedure, 15 min.	\$10.00
97112	PT Neuromuscular Re-Educ., 15 min.	\$10.00
97116	PT Gait Training, 30 min.	\$20.00
97124	PT Physical Med., 30 min.	\$10.00
Y7200	Combo. of Phy. Med., Init., 30 min.	\$20.00
Y7201	Physical Therapy + 15 min.	\$30.00
97032	Application of Modality, 15 min.	\$10.00
X0412	Speech/Language Evaluation/Re-Eval	\$45.00
Y2615	Individual Speech Therapy-60 min.	\$30.00
X0423	Individual Speech Therapy-30 min.	\$15.00
Y2611	Individual Speech Therapy-20 min.	\$10.00
X0424	Individual Speech Therapy-15 min.	\$7.50
Y2512	Group Speech Therapy-60 min.	\$30.00
Y2509	Group Speech Therapy-30 min.	\$15.00
Y2510	Group Speech Therapy-20 min.	\$10.00
Y2511	Group Speech Therapy-15 min.	\$7.50

All school boards that participate in Medicaid as EPSDT health services providers must submit a signed school system certification of understanding (PE-50 EPSDT provider supplement agreement "C") in order to receive the new reimbursement rates for these services. The new reimbursement rates will not be activated until a completed PE-50 EPSDT provider supplement agreement "C" form has been received from all of the school boards enrolled as EPSDT health services providers.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing,

Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing will be held on this matter on Tuesday, November 25, 1997 at 9:30 a.m. in the auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Early Periodic Screening, Diagnosis, and
Treatment (EPSDT) Program—Reimbursement for
Rehabilitative Services**

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

It is anticipated that implementation of this proposed rule will increase state program expenditures for Early Periodic Screening Diagnosis and Treatment (EPSDT) services by approximately \$440,464 for SFY 1997-1998; \$907,274 for SFY 1998-1999; and \$934,492 for SFY 1999-2000. Included is the state's share of \$40 for printing this proposed rule.

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

It is anticipated that federal revenue collections for Early Periodic Screening Diagnosis and Treatment (EPSDT) services will increase by approximately \$1,045,528 for SFY 1997-1998; \$2,153,705 for SFY 1998-1999; and \$2,218,316 for SFY 1999-2000. Included is \$40 for the federal share of printing this rule.

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

It is anticipated that the providers of the Early Periodic Screening Diagnosis and Treatment services will experience the combined state and federal expenditure increases of approximately \$1,485,992 for SFY 1997-1998; \$3,060,979 for SFY 1998-1999; and \$3,152,808 for SFY 1999-2000 for the provision of these services. Included is a total cost of \$80 for printing this proposed rule.

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

There is no known effect on competition and employment.

Thomas D. Collins
Director
9710#116

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medical Necessity Criteria

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing to adopt the following rule, as authorized by R.S. 46:153 and

pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing administers the Title XIX Medicaid Program which provides access to medically necessary services for the treatment of illness and/or medical conditions for Medicaid eligible recipients. Previously, the determination of medical necessity was based solely upon the recommendations of the recipient's physician or the prior authorization unit for those services requiring prior authorization. The bureau has now determined that specific criteria defining medical necessity must be adopted under the Administrative Procedure Act in order to assure uniformity.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following criteria to establish the medical necessity requirement for the provision of health and medical services under the Medicaid program. The determination of medical necessity for health and medical services reimbursement by the Medicaid Program ultimately rests with the Department of Health and Hospitals. Medical services for which Medicaid funding is available are limited to those necessary to diagnose, treat, correct, cure, alleviate, or prevent the worsening of conditions that:

- 1) endanger life;
- 2) cause suffering or pain;
- 3) have resulted, or will result, in a handicap, illness, or infirmity; or
- 4) threaten to cause or aggravate a handicap, a physical deformity, or malfunction; and
- 5) no other equally effective, more conservative, or less costly course of treatment is available or suitable for the recipient who has requested the service.

Experimental or investigational medical procedures are not considered in determining medical necessity as these medical services are not covered under the Medicaid Program as adopted by a previous rule (*Louisiana Register*, Volume 22, Number 9).

The general standard for medical necessity is the usual and customary community standards of care/treatment.

The definition of *medical necessity* will be used in conjunction with existing clinical criteria established for specific program services by the Medicaid program and is not intended to broaden the coverage of Medicaid services.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821. He is responsible for responding to inquiries regarding this proposed rule. A public hearing will be held on this matter on Tuesday, November 25, 1997 at 9:30 a.m. in the auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medical Necessity Criteria**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no fiscal impact resulting from the implementation of this proposed rule for SFYs 1998, 1999, and 2000. However, \$40 for the state's share of printing this rule will be incurred in state fiscal year 1998.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Federal revenue collections will reflect \$40 for promulgation of this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is no cost or economic benefit to directly affected persons as Medicaid recipients will continue to receive all medically necessary services for which enrolled providers will continue to receive their usual reimbursement.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Thomas D. Collins
Director
9710#115

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Regulation 33—Medicare Supplement
Insurance Minimum Standards**

Pursuant to the provisions of R.S. 49:950 et seq. and R.S. 22:224, the commissioner of Insurance gives notice of his intent to amend Regulation 33. This action is necessary to bring the Medicare Supplement Insurance Minimum Standards regulation in line with the provisions mandated by the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), 42 U.S.C. 1395 et seq., as amended, and with Act 633 of the 1997 Regular Legislative Session.

Synopsis

Proposed Revisions to Regulation 33

Medicare Supplement Insurance Minimum Standards

Regulation 33 establishes the minimum standards which must be complied with by all insurers marketing Medicare supplement policies in Louisiana. The authority for this regulation is found in R.S. 22:224 and in 42 U.S.C. 1395 et seq. (OBRA '90).

The regulation begins with a statement of its purpose and the authority for its adoption. It then defines key terms used in the regulation and those that must be used in Medicare supplement policies. The regulation also sets forth the minimum standards that must be offered in various approved Medicare supplement insurance plans as well as the requirements for coverage and standards for payment for services and fees. The regulation includes charts which detail

the types of coverage and costs covered under the various plans. It also sets standards for the payment of claims, the payment of premiums, the filing and approval of policies including mandatory policy provisions and the approval of premium rates.

The proposed revisions to Regulation 33 are required by recent amendments to OBRA (1990), 42 U.S.C. 1395 et seq. and Act 633 of the 1997 Regular Legislative Session. The major change is found in Section 13, Loss Ratio Standards and Refund or Credit of Premium.

Proposed Rule

Section 1. Purpose

The purpose of this regulation is to provide for the reasonable standardization of coverage and simplification of terms and benefits of Medicare supplement policies; to facilitate public understanding and comparison of such policies; to eliminate provisions contained in such policies which may be misleading or confusing in connection with the purchase of such policies or with the settlement of claims; and to provide for full disclosures in the sale of accident and sickness insurance coverages to persons eligible for Medicare.

Section 2. Authority

This regulation is issued pursuant to the authority vested in the commissioner under R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 22:224 of the *Insurance Code*.

Section 3. Applicability and Scope

A. Except as otherwise specifically provided in Sections 7, 12, 13, 16, and 21, this regulation shall apply to:

(1) all Medicare supplement policies delivered or issued for delivery in this state on or after the effective date of this regulation; and

(2) all certificates issued under group Medicare supplement policies which certificates have been delivered or issued for delivery in this state.

B. This regulation shall not apply to a policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

Section 4. Definitions

For purpose of this regulation:

A. *Applicant*—

(1) in the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits; and

(2) in the case of a group Medicare supplement policy, the proposed certificate holder.

B. *Certificate*—any certificate delivered or issued for delivery in this state under a group Medicare supplement policy.

C. *Certificate Form*—the form on which the certificate is delivered or issued for delivery by the issuer.

D. *Issuer*—includes insurance companies, fraternal benefit societies, health care service plans, health maintenance organizations, and any other entity delivering or issuing for

delivery in this state Medicare supplement policies or certificates.

E. *Medicare*—the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

F. *Medicare Supplement Policy*—a group or individual policy of health insurance or a subscriber contract of hospital and medical service associations or health maintenance organizations, other than a policy issued pursuant to a contract under Section 1876 of the federal Social Security Act (42 U.S.C. Section 1395 et seq.) or an issued policy under a demonstration project specified in 42 U.S.C. Section 1395ss(g)(1), which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare. Also, it includes those plans commonly known as health care prepayment plans (HCPPs).

G. *Policy Form*—the form on which the policy is delivered or issued for delivery by the issuer.

H. *Qualified Actuary*—an actuary who is a member of either the Society of Actuaries or the American Academy of Actuaries.

Section 5. Policy Definitions and Terms

No policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy or certificate unless the policy or certificate contains definitions or terms which conform to the requirements of this Section.

A. *Accident, Accidental Injury, or Accidental Means*—shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words or description or characterization.

(1) The definition shall not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force."

(2) The definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers' compensation, employer's liability or similar law, or motor vehicle no-fault plan, unless prohibited by law.

B. *Benefit Period or Medicare Benefit Period*—shall not be defined more restrictively than as defined in the Medicare program.

C. *Convalescent Nursing Home, Extended Care Facility, or Skilled Nursing Facility*—shall not be defined more restrictively than as defined in the Medicare program.

D. *Health Care Expenses*—expenses of health maintenance organizations associated with the delivery of health care services which expenses are analogous to incurred losses of insurers. Expenses shall not include:

- (1) home office and overhead costs;
- (2) advertising costs;
- (3) commissions and other acquisition costs;
- (4) taxes;
- (5) capital costs;

(6) administrative costs; and

(7) claims processing costs.

E. *Hospital*—may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals, but not more restrictively than as defined in the Medicare program.

F. *Medicare*—shall be defined in the policy and certificate. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended", or "Title I, Part I of Public Law 89-97, as Enacted by the 89th Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

G. *Medicare Eligible Expenses*—expenses of the kinds covered by Medicare, to the extent recognized as reasonable and medically necessary by Medicare.

H. *Physician*—shall not be defined more restrictively than as defined in the Medicare program.

I. *Sickness*—shall not be defined to be more restrictive than the following:

Sickness—illness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force.

The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability or similar law.

Section 6. Policy Provisions

A. Except for permitted pre-existing condition clauses as described in Section 7A(1) and Section 8A(1) of this regulation, no policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy if the policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

B. No Medicare supplement policy or certificate may use waivers to exclude, limit or reduce coverage or benefits for specifically named or described pre-existing diseases or physical conditions.

C. No Medicare supplement policy or certificate in force in the state shall contain benefits which duplicate benefits provided by Medicare.

Section 7. Minimum Benefit Standards for Policies or Certificates Issued for Delivery Prior to July 20, 1992

No policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy or certificate unless it meets or exceeds the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards.

A. General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

(1) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six

months from the effective date of coverage because it involved a pre-existing condition. The policy or certificate shall not define a pre-existing condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(2) A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(3) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

(4) A "noncancellable," "guaranteed renewable," or "noncancellable and guaranteed renewable" Medicare supplement policy shall not:

(a) provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium; or

(b) be canceled or nonrenewed by the issuer solely on the grounds of deterioration of health.

(5)(a) Except as authorized by the commissioner of this state, an issuer shall neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

(b) If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in Paragraph (5)(d), the issuer shall offer certificate holders an individual Medicare supplement policy. The issuer shall offer the certificate holder at least the following choices:

(i) an individual Medicare supplement policy currently offered by the issuer having comparable benefits to those contained in the terminated group Medicare supplement policy; and

(ii) an individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards as defined in Section 8B of this regulation;

(iii) group contracts in force prior to the effective date of the Omnibus Budget Reconciliation Act (OBRA) of 1990 may have existing contractual obligations to continue benefits contained in the group contract. This Section is not intended to impair those obligations.

(c) If membership in a group is terminated, the issuer shall:

(i) offer the certificate holder the conversion opportunities described in Subparagraph (b); or

(ii) at the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy.

(d) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any

exclusion for pre-existing conditions that would have been covered under the group policy being replaced.

(6) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or to payment of the maximum benefits.

B. Minimum Benefit Standards

(1) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the sixty-first day through the ninetieth in any Medicare benefit period;

(2) Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount;

(3) Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

(4) Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of 90 percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

(5) Coverage under Medicare Part A for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B;

(6) Coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible [\$100];

(7) Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

Section 8. Benefit Standards for Policies or Certificates Issued or Delivered on or After July 20, 1992

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after July 20, 1992. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards.

A. General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

(1) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six months from the effective date of coverage because it involved a pre-existing condition. The policy or certificate may not define a pre-existing condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six

months before the effective date of coverage.

(2) A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(3) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

(4) No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

(5) Each Medicare supplement policy shall be guaranteed renewable.

(a) the issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual.

(b) the issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation;

(c) if the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under Section 8A(5)(e), the issuer shall offer certificate holders an individual Medicare supplement policy which (at the option of the certificate holder):

(i) provides for continuation of the benefits contained in the group policy; or

(ii) provides for benefits that otherwise meet the requirements of this Subsection.

(d) if an individual is a certificate holder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall:

(i) offer the certificate holder the conversion opportunity described in Section 8A(5)(c); or

(ii) at the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy.

(e) if a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for pre-existing conditions that would have been covered under the group policy being replaced.

(6) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

(7)(a) A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificate holder for the period (not to exceed

24 months) in which the policyholder or certificate holder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificate holder notifies the issuer of the policy or certificate within 90 days after the date the individual becomes entitled to assistance.

(b) If suspension occurs and if the policyholder or certificate holder loses entitlement to medical assistance, the policy or certificate shall be automatically reinstated (effective as of the date of termination of such entitlement) as of the termination of entitlement if the policyholder or certificate holder provides notice of loss of entitlement within 90 days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of entitlement.

(c) Reinstatement of coverages:

(i) shall not provide for any waiting period with respect to treatment of pre-existing conditions;

(ii) shall provide for coverage which is substantially equivalent to coverage in effect before the date of suspension; and

(iii) shall provide for classification of premiums on terms at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage not been suspended.

B. Standards for Basic ("Core") Benefits Common to All Benefit Plans. Every issuer shall make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic "core" package, but not in lieu of it.

(1) Coverage of Part A Medicare Eligible Expenses for hospitalization to the extent not covered by Medicare from the sixty-first day through the ninetieth day in any Medicare benefit period;

(2) Coverage of Part A Medicare Eligible Expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;

(3) Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of the Medicare Part A eligible expenses for hospitalization paid at the Diagnostic Related Group (DRG) day outlier per diem or other appropriate standard of payment, subject to a lifetime maximum benefit of an additional 365 days;

(4) Coverage under Medicare Parts A and B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations;

(5) Coverage for the coinsurance amount of Medicare Eligible Expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible;

C. Standards for Additional Benefits. The following additional benefits shall be included in Medicare Supplement Benefit Plans "B" through "J" only as provided by Section 9 of this regulation:

(1) Medicare Part A Deductible. Coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period.

(2) Skilled Nursing Facility Care. Coverage for the actual billed charges up to the coinsurance amount from the twenty-first day through the one-hundredth day in a Medicare benefit period for post hospital skilled nursing facility care eligible under Medicare Part A.

(3) Medicare Part B Deductible. Coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

(4) Eighty percent of the Medicare Part B Excess Charges: Coverage for 80 percent of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

(5) One-hundred percent of the Medicare Part B Excess Charges: Coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

(6) Basic Outpatient Prescription Drug Benefit. Coverage for 50 percent of outpatient prescription drug charges, after a \$250 calendar-year deductible, to a maximum of \$1,250 in benefits received by the insured per calendar year, to the extent not covered by Medicare.

(7) Extended Outpatient Prescription Drug Benefit. Coverage for 50 percent of outpatient prescription drug charges, after a \$250 calendar-year deductible to a maximum of \$3,000 in benefits received by the insured per calendar year, to the extent not covered by Medicare.

(8) Medically Necessary Emergency Care in a Foreign Country. Coverage to the extent not covered by Medicare for 80 percent of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first 60 consecutive days of each trip outside the United States, subject to a calendar-year deductible of \$250, and a lifetime maximum benefit of \$50,000. For purposes of this benefit, *emergency care* shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

(9) Preventive Medical Care Benefit. Coverage for the following preventive health services:

(a) an annual clinical preventive medical history and physical examination that may include tests and services from Subparagraph (b) and patient education to address preventive health care measures;

(b) any one or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:

(i) fecal occult blood test or digital rectal examination, or both;

(ii) mammogram;

(iii) dipstick urinalysis for hematuria, bacteriuria and proteinuria;

(iv) pure tone (air only) hearing screening test, administered or ordered by a physician;

(v) serum cholesterol screening (every five years);

(vi) thyroid function test;

(vii) diabetes screening.

(c) influenza vaccine administered at any appropriate time during the year and Tetanus and Diphtheria booster (every 10 years);

(d) any other tests or preventive measures determined appropriate by the attending physician.

Reimbursement shall be for the actual charges up to 100 percent of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of \$120 annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare.

(10) At-Home Recovery Benefit. Coverage for services to provide short term, at-home assistance with activities of daily living for those recovering from an illness, injury or surgery.

(a) For purposes of this benefit, the following definitions shall apply:

(i) *Activities of Daily Living*—include, but are not limited to bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.

(ii) *Care Provider*—a duly qualified or licensed home health aide/homemaker, personal care aide or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

(iii) *Home*—any place used by the insured as a place of residence, provided that such place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence.

(iv) *At-home Recovery Visit*—the period of a visit required to provide at home recovery care, without limit on the duration of the visit, except each consecutive four hours in a 24-hour period of services provided by a care provider is one visit.

(b) Coverage Requirements and Limitations

(i) At-home recovery services provided must be primarily services which assist in activities of daily living.

(ii) The insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare.

(iii) Coverage is limited to:

(I) no more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare approved home health care visits under a Medicare approved home care plan of treatment;

(II) the actual charges for each visit up to a maximum reimbursement of \$40 per visit;

(III) \$1,600 per calendar year;

(IV) seven visits in any one week;

(v) care furnished on a visiting basis in the insured's home;

(vi) services provided by a care provider as defined in this Section;

(vii) at-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded;

(viii) at-home recovery visits received during the period the insured is receiving Medicare approved home care services or no more than eight weeks after the service date of the last Medicare approved home health care visit.

(c) Coverage is excluded for:

(i) home care visits paid for by Medicare or other government programs; and

(ii) care provided by family members, unpaid volunteers or providers who are not care providers.

(11) New or Innovated Benefits. An issuer may, with the prior approval of the commissioner, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost-effective, and offered in a manner which is consistent with the goal of simplification of Medicare supplement policies.

Section 9. Standard Medicare Supplement Benefit Plans

A. An issuer shall make available to each prospective policyholder and certificate holder a policy form or certificate form containing only the basic "core" benefits, as defined in Section 8B of this regulation.

B. No groups, packages or combinations of Medicare supplement benefits other than those listed in this Section shall be offered for sale in this state, except as may be permitted in Section 8C(11) and in Section 10 of this regulation.

C. Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans "A" through "J" listed in this Subsection and conform to the definitions in Section 4 of this regulation. Each benefit shall be structured in accordance with the format provided in Sections 8B and 8C and list the benefits in the order shown in this Subsection. For purposes of this Section, *Structure*, *Language*, and *Format* means style, arrangement and overall content of a benefit.

D. An issuer may use, in addition to the benefit plan designations required in Subsection C, other designations to the extent permitted by law.

E. Make-up of Benefit Plans

(1) Standardized Medicare supplement benefit plan "A" shall be limited to the Basic ("Core") Benefits Common to All Benefit Plans, as defined in Section 8B of this regulation.

(2) Standardized Medicare supplement benefit plan "B" shall include only the following: the Core Benefit as defined in Section 8B of this regulation plus the Medicare Part A Deductible as defined in Section 8C(1).

(3) Standardized Medicare supplement benefit plan "C" shall include only the following: the Core Benefit as defined in Section 8B of this regulation plus the Medicare Part A

Deductible, Skilled Nursing Facility Care, Medicare Part B Deductible and Medically Necessary Emergency Care in a Foreign Country as defined in Sections 8C(1), (2), (3) and (8), respectively.

(4) Standardized Medicare supplement benefit plan "D" shall include only the following: the Core Benefit as defined in Section 8B of this regulation plus the Medicare Part A Deductible, Skilled Nursing Facility Care, Medically Necessary Emergency Care in a Foreign Country and the At-Home Recovery Benefit as defined in Sections 8C(1), (2), (8) and (10), respectively.

(5) Standardized Medicare supplement benefit plan "E" shall include only the following: the Core Benefit as defined in Section 8B of this regulation plus the Medicare Part A Deductible, Skilled Nursing Facility Care, medically Necessary Emergency Care in a Foreign Country and Preventive Medical Care as defined in Sections 8C(1), (2), (8) and (9), respectively.

(6) Standardized Medical supplement benefit plan "F" shall include only the following: the Core Benefit as defined in Section 8B of this regulation plus the Medicare Part A Deductible, Skilled Nursing Facility Care, the Part B Deductible, 100 percent of the Medicare Part B Excess Charges, and Medically Necessary Emergency Care in a Foreign Country as defined in Sections 8C(1), (2), (3), (5) and (8), respectively.

(7) Standardized Medicare supplement benefit plan "G" shall include only the following: the Core Benefit as defined in Section 8B of this regulation plus the Medicare Part A Deductible, Skilled Nursing Facility Care, 80 percent of the Medicare Part B Excess Charges, Medically Necessary Emergency Care in a Foreign Country, and the At-Home Recovery Benefits as defined in Sections 8C(1), (2), (4), (8) and (10), respectively.

(8) Standardized Medicare supplement benefit plan "H" shall consist of only the following: the Core Benefit as defined in Section 8B of this regulation plus the Medicare Part A Deductible, Skilled Nursing Facility Care, Basic Prescription Drug Benefit and Medically Necessary Emergency Care in a Foreign Country as defined in Sections 8C(1), (2), (6) and (8), respectively.

(9) Standardized Medicare supplement benefit plan "I" shall consist of only the following: the Core Benefit as defined in Section 8B of this regulation plus the Medicare Part A Deductible, Skilled Nursing Facility Care, 100 percent of the Medicare Part B Excess Charges, Basic Prescription Drug Benefit, Medically Necessary Emergency Care in a Foreign Country and At-Home Recovery Benefit as defined in Sections 8C(1), (2), (5), (6), (8) and (10), respectively.

(10) Standardized Medicare supplement benefit plan "J" shall consist of only the following: the Core Benefit as defined in Section 8B of this regulation plus the Medicare Part A Deductible, Skilled Nursing Facility Care, Medicare Part B Deductible, 100 percent of the Medicare Part B Excess Charges, Extended Prescription Drug Benefit, Medically Necessary Emergency Care in a Foreign Country, Preventive Medical Care and At-Home Recovery Benefit as defined in Sections 8C(1), (2), (3), (5), (7), (8), (9) and (10), respectively.

Section 10. Medicare Select Policies and Certificates

A.(1) This Section shall apply to Medicare Select policies and certificates, as defined in this Section.

(2) No policy or certificate may be advertised as a Medicare Select policy or certificate unless it meets the requirements of this Section.

B. For the purposes of this Section:

(1) *Complaint*—any dissatisfaction expressed by an individual concerning a Medicare Select issuer or its network providers.

(2) *Grievance*—dissatisfaction expressed in writing by an individual insured under a Medicare Select policy or provision of services concerning a Medicare Select issuer or its network providers.

(3) *Medicare Select Issuer*—an issuer offering, or seeking to offer, a Medicare Select policy or certificate.

(4) *Medicare Select Policy or Select Certificate*—means respectively a Medicare supplement policy or certificate that contains restricted network provisions.

(5) *Network Provider*—a provider of health care, or a group of providers of health care, which has entered into a written agreement with the issuer to provide benefits insured under a Medicare Select policy.

(6) *Restricted Network Provision*—any provision which conditions the payment of benefits, in whole or in part, on the use of network providers.

(7) *Service Area*—the geographic area approved by the commissioner within which an issuer is authorized to offer a Medicare Select policy.

C. The commissioner may authorize an issuer to offer a Medicare Select policy or certificate, pursuant to this Section and Section 4358 of the Omnibus Budget Reconciliation Act (OBRA) of 1990 if the commissioner finds that the issuer has satisfied all of the requirements of this regulation.

D. A Medicare Select issuer shall not issue a Medicare Select policy or certificate in this state until its plan of operation has been approved by the commissioner.

E. A Medicare Select issuer shall file a proposed plan of operation with the commissioner in a format prescribed by the commissioner. The plan of operation shall contain at least the following information:

(1) evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration that:

(a) services can be provided by network providers with reasonable promptness with respect to geographic location, hours of operation and after-hour care. The hours of operation and availability of after-hour care shall reflect usual practice in the local area. Geographic availability shall reflect the usual travel times within the community;

(b) the number of network providers in the service area is sufficient, with respect to current and expected policyholders, either:

(i) to deliver adequately all services that are subject to a restricted network provision; or

(ii) to make appropriate referrals;

(c) there are written agreements with network providers describing specific responsibilities;

(d) emergency care is available 24 hours per day and seven days per week;

(e) in the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, there are written agreements with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare Select policy or certificate. This Paragraph shall not apply to supplemental charges or coinsurance amounts as stated in the Medicare Select policy or certificate.

(2) a statement or map providing a clear description of the service area.

(3) a description of the grievance procedure to be utilized.

(4) a description of the quality assurance program, including:

(a) the formal organizational structure;

(b) the written criteria for selection, retention and removal of network providers; and

(c) the procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action when warranted.

(5) a list and description, by specialty, of the network providers.

(6) copies of the written information proposed to be used by the issuer to comply with Subsection I.

(7) any other information requested by the commissioner.

F.(1) A Medicare Select issuer shall file any proposed changes to the plan of operation, except for changes to the list of network providers, with the commissioner prior to implementing the changes. Changes shall be considered approved by the commissioner after 30 days unless specifically disapproved.

(2) An updated list of network providers shall be filed with the commissioner at least quarterly.

G. A Medicare Select policy or certificate shall not restrict payment for covered services provided by non-network providers if:

(1) the services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury or a condition; and

(2) it is not reasonable to obtain such services through a network provider.

H. A Medicare Select policy or certificate shall provide payment for full coverage under the policy for covered services that are not available through network providers.

I. A Medicare Select issuer shall make full and fair disclosure in writing of the provisions, restrictions, and limitations of the Medicare Select policy or certificate to each applicant. This disclosure shall include at least the following:

(1) an outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare Select policy or certificate with:

(a) other Medicare supplement policies or certificates offered by the issuer; and

(b) other Medicare Select policies or certificates.

(2) a description (including address, phone number and hours of operation) of the network providers, including primary care physicians, specialty physicians, hospitals and other providers;

(3) a description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are utilized;

(4) a description of coverage for emergency and urgently needed care and other out-of-service area coverage;

(5) a description of limitations on referrals to restricted network providers and to other providers;

(6) a description of the policyholder's rights to purchase any other Medicare supplement policy or certificate otherwise offered by the issuer;

(7) a description of the Medicare Select issuer's quality assurance program and grievance procedure.

J. Prior to the sale of a Medicare Select policy or certificate, a Medicare Select issuer shall obtain from the applicant a signed and dated form stating that the applicant has received the information provided pursuant to Subsection I of this Section and that the applicant understands the restrictions of the Medicare Select policy or certificate.

K. A Medicare Select issuer shall have and use procedures for hearing complaints and resolving written grievances from the subscribers. The procedures shall be aimed at mutual agreement for settlement and may include mediation procedures.

(1) The grievance procedure shall be described in the policy and certificates and in the outline of coverage.

(2) At the time the policy or certificate is issued, the issuer shall provide detailed information to the policyholder describing how a grievance may be registered with the issuer.

(3) Grievances shall be considered in a timely manner and shall be transmitted to appropriate decision-makers who have authority to fully investigate the issue and take corrective action.

(4) If a grievance is found to be valid, corrective action shall be taken promptly.

(5) All concerned parties shall be notified about the results of a grievance.

(6) The issuer shall report no later than each March 31 to the commissioner regarding its grievance procedure. The report shall be in a format prescribed by the commissioner and shall contain the number of grievances filed in the past year and a summary of the subject, nature and resolution of such grievances.

L. At the time of initial purchase, a Medicare Select issuer shall make available to each applicant for a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate otherwise offered by the issuer.

M.(1) At the request of an individual insured under a Medicare Select policy or certificate, a Medicare Select issuer shall make available to the individual insured the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make such policies or certificates available

without requiring evidence of insurability after the Medicare Select policy or certificate has been in force for six months.

(2) For the purposes of this Subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of this Paragraph, a *significant benefit* means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services or coverage for Part B excess charges.

N. Medicare Select policies and certificates shall provide for continuation of coverage in the event the secretary of Health and Human Services determines that Medicare Select policies and certificates issued pursuant to this Section should be discontinued due to either the failure of the Medicare Select Program to be re-authorized under law or its substantial amendment.

(1) Each Medicare Select issuer shall make available to each individual insured under a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make the policies and certificates available without requiring evidence of insurability.

(2) For the purposes of this Subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of this Paragraph, a *significant benefit* means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services or coverage for Part B excess charges.

O. A Medicare Select issuer shall comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare Select Program.

Section 11. Open Enrollment

A. An issuer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in this state, nor discriminate in the pricing of a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six-month period beginning with the first day of the first month in which an individual is enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an insurer shall be made available to all applicants who qualify under this Subsection without regard to age.

B. Except as provided in Section 22, Subsection A shall not be construed as preventing the exclusion of benefits under a policy, during the first six months, based on a pre-existing condition for which the policyholder or certificate holder received treatment or was otherwise diagnosed during the six months before the coverage became effective.

Section 12. Standards for Claims Payment

A. An issuer shall comply with Section 1882(c)(3) of the Social Security Act (as enacted by Section 4081(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1987 (OBRA) 1987, P.L. 100-203) by:

(1) accepting a notice from a Medicare carrier on dually assigned claims submitted by participating physicians and suppliers as a claim for benefits in place of any other claim form otherwise required and making a payment determination on the basis of the information contained in that notice;

(2) notifying the participating physician or supplier and the beneficiary of the payment determination;

(3) paying the participating physician or supplier directly;

(4) furnishing, at the time of enrollment, each enrollee with a card listing the policy name, number and a central mailing address to which notices from a Medicare carrier may be sent;

(5) paying user fees for claim notices that are transmitted electronically or otherwise; and

(6) providing to the secretary of Health and Human Services, at least annually, a central mailing address to which all claims may be sent by Medicare carriers.

B. Compliance with the requirements set forth in Subsection A above shall be certified on the Medicare supplement insurance experience reporting form.

Section 13. Loss Ratio Standards and Refund or Credit of Premium

A. Loss Ratio Standards

(1)(a) A Medicare Supplement policy form or certificate form shall not be delivered or issued for delivery unless the policy form or certificate form can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificate holders in the form of aggregate benefits (not including anticipated refunds or credits) provided under the policy form or certificate form:

(i) at least 75 percent of the aggregate amount of premiums earned in the case of group policies; or

(ii) at least 65 percent of the aggregate amount of premiums earned in the case of individual policies;

(b) Calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for the period and in accordance with accepted actuarial principles and practices.

(2) All filings of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this Section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

(3) For purposes of applying Subsection A(1) of this Section and Subsection C(3) of Section 14 only, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and

broadcast advertising) shall be deemed to be individual policies.

(4) For policies issued prior to January 20, 1991, expected claims in relation to premiums shall meet:

(a) the originally filed anticipated loss ratio when combined with the actual experience since inception;

(b) the appropriate loss ratio requirement from Subsection A(1)(a)(i) and (ii) when combined with actual experience beginning with January 1, 1998 to date; and

(c) the appropriate loss ratio requirement from Subsection A(1)(a)(i) and (ii) over the entire future period for which the rates are computed to provide coverage.

B. Refund or Credit Calculation

(1) An issuer shall collect and file with the commissioner by May 31 of each year the data contained in the applicable reporting form contained in Appendix A for each type in a standard Medicare supplement benefit plan.

(2) If on the basis of the experience as reported the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3), then a refund or credit calculation is required. The refund calculation shall be done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded.

(3) For the purposes of this Section, policies or certificates issued prior to January 20, 1991, the issuer shall make the refund or credit calculation separately for all individual policies (including all group policies subject to an individual loss ratio standard when issued) combined and all other group policies combined for experience after January 1, 1998. The first report shall be due by May 31, 2000 of this amendment.

(4) A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credited exceeds a de minimis level. The refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the secretary of Health and Human Services, but in no event shall it be less than the average rate of interest for 13-week Treasury Notes. A refund or credit against premiums due shall be made by September 30 following the experience year upon which the refund or credit is based.

C. Filing of Rates and Rating Schedules. All filings of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this Section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

(1) Each Medicare supplement policy or certificate form shall be accompanied, upon submission for approval, by an actuarial memorandum. The memorandum shall be prepared, signed and dated by a qualified actuary in accordance with generally accepted actuarial principles and practices, and shall contain at least the information listed in the following subparagraphs:

(a) the form number that the actuarial memorandum addresses;

(b) a brief description of benefits provided;

(c) a schedule of rates to be used;

(d) a complete explanation of the rating process, including assumptions, claims data, methodology, and formulae used in developing the gross premium rates;

(e) a statement of what experience base will be used in future rate adjustments;

(f) a certification that the anticipated aggregate loss ratio is at least 65 percent (for individual coverage) or at least 75 percent (for group coverage), which certification should include a statement of the period over which the aggregate loss ratio is expected to be realized;

(g) a table of anticipated loss ratio experience for representative issue ages for each year from issue over the period of time over which the aggregate loss ratio is to be realized; and

(h) a certification that the premiums are reasonable in relation to the benefits provided;

(i) the memorandum shall be filed in duplicate;

(j) any additional information requested by the commissioner.

(2) Subsequent rate adjustments filings, except for those rates filed solely due to a change in the Part A calendar year deductible, shall also provide an actuarial memorandum, prepared, signed and dated by a qualified actuary, in accordance with generally accepted actuarial principles and practices, which memorandum shall contain at least the information in the following subparagraphs:

(a) the form number addressed by the actuarial memorandum shall be included;

(b) a brief description of benefits provided shall be included;

(c) a schedule of rates before and after the rate change shall be included;

(d) a statement of the reason and basis for the rate change shall be included;

(e) a demonstration and certification by the qualified actuary shall be included to show that the past plus future expected experience after the rate change will result in an aggregate loss ratio equal to, or greater than, the required minimum aggregate loss ratio;

(i) this rate change and demonstration shall be based on the experience of the named form in Louisiana only, if that experience is credible.

(ii) the rate change and demonstration shall be based on experience of the named form nationwide, if the named form is used nationwide and the Louisiana experience is not credible, but the nationwide experience is credible.

(f) for policies or certificates in force less than three years, a demonstration shall be included to show that the third-year loss ratio is expected to be equal to, or greater than, the applicable percentage;

(g) a certification by the qualified actuary that the resulting premiums are reasonable in relation to the benefits provided shall be included;

(h) the memorandum shall be filed in duplicate;

(i) any additional information requested by the commissioner.

(3) An issuer of Medicare supplement policies and certificates issued before or after the effective date of Regulation 33 (Revised 1992) in this state shall file annually its rates, rating schedule and supporting documentation including ratios of incurred losses to earned premiums by policy duration for the upcoming calendar year for approval by the commissioner no later than December 31. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. An expected third-year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three years.

The actuarial memorandum filed for purposes of this Subsection shall contain all Medicare supplement plans issued by the issuer and shall not include rate adjustments. The memorandum shall be prepared, signed and dated by a qualified actuary in accordance with generally accepted actuarial principles and practices, and shall contain at least the information listed in the following subparagraphs:

(a) the form number of each plan that the actuarial memorandum addresses;

(b) plan type designation (for example: Plan A, Plan B, Pre-standardized);

(c) the methodology for each plan;

(d) identify filing as "ANNUAL MEDICARE SUPPLEMENT FILING" on the face page of the memorandum;

(e) the memorandum shall be filed in duplicate;

(f) any additional information requested by the commissioner.

(4) As soon as practicable, but prior to the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement policies or certificates in this state shall file with the commissioner, in accordance with the applicable filing procedures of this state:

(a)(i) Appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable policies or certificates. The supporting documents necessary to justify the adjustment shall accompany the filing.

(ii) An issuer shall make premium adjustments necessary to produce an expected loss ratio under the policy or certificate to conform to minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for the Medicare supplement policies or certificates. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described herein shall be made with respect to a policy at any time other than upon its renewal date or anniversary date.

(iii) If an issuer fails to make premium adjustments acceptable to the commissioner, the commissioner may order

premium adjustments, refunds or premium credits deemed necessary to achieve the loss ratio required by this Section.

(b) Any appropriate riders, endorsements or policy forms needed to accomplish the Medicare supplement policy or certificate modifications necessary to eliminate benefit duplications with Medicare. The riders, endorsements or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or certificate.

D. Public Hearings. The commissioner may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for a policy form or certificate form issued before or after the effective date of Regulation 33 as revised July 20, 1992 if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of any refund or credit for the reporting period. Public notice of the hearing shall be furnished in a manner deemed appropriate by the commissioner.

Section 14. Filing and Approval of Policies and Certificates and Premium Rates

A. An issuer shall not deliver or issue for delivery a policy or certificate to a resident of this state unless the policy form or certificate form has been filed with and approved by the commissioner in accordance with filing requirements and procedures prescribed by the commissioner.

B. An issuer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule and supporting documentation have been filed with and approved by the commissioner in accordance with the filing requirements and procedures prescribed by the commissioner.

C.(1) Except as provided in Paragraph (2) of this Subsection, an issuer shall not file for approval more than one form of a policy or certificate of each type for each standard Medicare supplement benefit plan.

(2) An issuer may offer, with the approval of the commissioner, up to four additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan, one for each of the following cases:

- (a) the inclusion of new or innovative benefits;
- (b) the addition of either direct response or agent marketing methods;
- (c) the addition of either guaranteed issue or underwritten coverage;
- (d) the offering of coverage to individuals eligible for Medicare by reason of disability.

(3) For the purposes of this Section, a *Type* means an individual policy, a group policy, an individual Medicare Select policy, or a group Medicare Select policy.

D.(1) Except as provided in Paragraph (1)(a), an issuer shall continue to make available for purchase any policy form or certificate form issued after the effective date of this regulation that has been approved by the commissioner. A policy form or certificate form shall not be considered to be available for purchase unless the issuer has actively offered it for sale in the previous 12 months.

(a) An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the

commissioner in writing its decision at least 30 days prior to discontinuing the availability of the form of the policy or certificate. After receipt of the notice by the commissioner, the issuer shall no longer offer for sale the policy form or certificate form in this state.

(b) An issuer that discontinues the availability of a policy form or certificate form pursuant to Subparagraph (a) shall not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five years after the issuer provides notice to the commissioner of the discontinuance. The period of discontinuance may be reduced if the commissioner determines that a shorter period is appropriate.

(2) The sale or other transfer of Medicare supplement business to another issuer shall be considered a discontinuance for the purposes of this Subsection.

(3) A change in the rating structure or methodology shall be considered a discontinuance under Paragraph (1) unless the issuer complies with the following requirements:

(a) The issuer provides an actuarial memorandum, in a form and manner prescribed by the commissioner, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing rates.

(b) The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The commissioner may approve a change to the differential which is in the public interest.

E.(1) Except as provided in Paragraph (2), the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in Section 13 of this regulation.

(2) Forms assumed under an assumption reinsurance agreement shall not be combined with the experience of other forms for purposes of the refund or credit calculation.

Section 15. Permitted Compensation Arrangements

A. An issuer or other entity may provide commission or other compensation to an agent or other representative for the sale of a Medicare supplement policy or certificate only if the first year commission or other first year compensation is no more than 200 percent of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period.

B. The commission or other compensation provided in subsequent (renewal) years must be the same as that provided in the second year or period and must be provided for no fewer than five renewal years.

C. No issuer or other entity shall provide compensation to its agents or other producers and no agent or producer shall receive compensation greater than the renewal compensation payable by the replacing issuer on renewal policies or certificates if an existing policy or certificate is replaced.

D. For purposes of this Section, *Compensation* includes pecuniary or nonpecuniary remuneration of any kind relating

to the sale or renewal of the policy or certificate including but not limited to bonuses, gifts, prizes, awards and finders fees.

Section 16. Required Disclosure Provisions

A. General Rules

(1) Medicare supplement policies and certificates shall include a renewal or continuation provision. The language or specifications of the provision shall be consistent with the type of contract issued. The provision shall be appropriately captioned and shall appear on the first page of the policy, and shall include any reservation by the issuer of the right to change premiums and any automatic renewal premium increases based on the policyholder's age.

(2) Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a Medicare supplement policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy or certificate issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to in writing signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement policies, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy.

(3) Medicare supplement policies or certificates shall not provide for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or words of similar import.

(4) If a Medicare supplement policy or certificate contains any limitations with respect to pre-existing conditions, such limitations shall appear as a separate paragraph of the policy and be labeled as "Pre-existing Condition Limitations."

(5) Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the policyholder or certificate holder shall have the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason.

(6)(a) Issuers of accident and sickness policies or certificates which provide hospital or medical expense coverage on an expense incurred or indemnity basis to persons, eligible for Medicare shall provide to those applicants a *Guide to Health Insurance for People with Medicare* in the form developed jointly by the National Association of Insurance Commissioners and the Health Care Financing Administration and in a type size no smaller than 12-point type. Delivery of the guide shall be made whether or not the policies or certificates are advertised, solicited or issued as Medicare supplement policies or certificates as defined in this regulation. Except in the case of direct

response issuers, delivery of the guide shall be made to the applicant at the time of application and acknowledgment of receipt of the guide shall be obtained by the issuer. Direct response issuers shall deliver the guide to the applicant upon request but not later than at the time the policy is delivered.

(b) For the purposes of this Section, *form* means the language, format, type size, type proportional spacing, bold character, and line spacing.

B. Notice Requirements

(1) As soon as practicable, but no later than 30 days prior to the annual effective date of any Medicare benefit changes, an issuer shall notify its policyholders and certificate holders of modifications it has made to Medicare supplement insurance policies or certificates in a format acceptable to the commissioner. The notice shall:

(a) include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement policy or certificate; and

(b) inform each policyholder or certificate holder as to when any premium adjustment is to be made due to changes in Medicare.

(2) The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

(3) The notices shall not contain or be accompanied by any solicitation.

C. Outline of Coverage Requirements for Medicare Supplement Policies

(1) Issuers shall provide an outline of coverage to all applicants at the time application is presented to the prospective applicant and, except for direct response policies, shall obtain an acknowledgement of receipt of the outline from the applicant; and

(2) If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany the policy or certificate when it is delivered and contain the following statement, in no less than 12-point type, immediately above the company name:

"NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."

(3) The outline of coverage provided to applicants pursuant to this Section consists of four parts: a cover page; premium information; disclosure pages; and charts displaying the features of all benefit plans available by the issuer. The outline of coverage shall be in the language and format prescribed below in no less than 12-point type. All plans A-J shall be shown on the cover page, and each Medicare supplement policy and certificate currently available by an issuer shall be prominently identified. Premium information for plans that are available shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and mode shall be stated for all plans that are available to the prospective applicant. All

possible premiums for the prospective applicant shall be illustrated.

(4) The following items shall be included in the outline of coverage in the order prescribed below.

[COMPANY NAME]

Outline of Medicare Supplement Coverage--Cover Page:

Benefit Plan(s) _____ [insert letter(s) of plan(s) available by the issuer]

Medicare supplement insurance can be sold in only 10 standard plans. This chart shows the benefits included in each plan. Every company must make available Plan "A." Some plans may not be available in your state.

BASIC BENEFITS: Included in All Plans.

Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical Expenses: Part B coinsurance (Generally, 20 percent) of Medicare-approved expenses).

Blood: First three pints of blood each year.

A	B	C	D	E
Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits
		Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible
		Part B Deductible		
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency
			At-Home Recovery	
				Preventive Care

F	G	H	I	J
Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits
Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance
Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible
Part B Deductible				Part B Deductible
Part B Excess (100%)	Part B Excess (80%)		Part B Excess (100%)	Part B Excess (100%)
Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency
	At-Home Recovery		At-Home Recovery	At-Home Recovery
		Basic Drugs (\$1,250 Limit)	Basic Drugs (\$1,250 Limit)	Extended Drugs (3,000 Limit)
				Preventive Care

PREMIUM INFORMATION [Boldface Type]

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this state. [If the premium is based on the increasing age of the insured, include information specifying when premiums will change.]

DISCLOSURES [Boldface Type]

Use this outline to compare benefits and premiums among policies.

READ YOUR POLICY VERY CAREFULLY [Boldface Type]

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

RIGHT TO RETURN POLICY [Boldface Type]

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

POLICY REPLACEMENT [Boldface Type]

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

NOTICE [Boldface Type]

This policy may not fully cover all of your medical costs.

[for agents:]

Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:]

[insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security Office or consult "The Medicare Handbook" for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT [Boldface Type]

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this Paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this regulation. An issuer may use additional benefit plan designations on these charts pursuant to Section 9D of this regulation.]

[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the commissioner.]

PLAN A

MEDICARE (PART A) --HOSPITAL SERVICES--PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[760]	\$0	\$[760](Part A Deductible)
61st thru 90th day	All but \$[190] a day	\$[190] a day	\$0
91st day and after:			
--While using 60 lifetime reserve days	All but \$[380] a day	\$[380] a day	\$0
--Once lifetime reserve days are used:			
--Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
--Beyond the Additional 365 days	\$0	\$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$[95] a day	\$0	Up to \$[95] a day
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN A

MEDICARE (PART B) --MEDICAL SERVICES--PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES* IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	\$0	All Costs

BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES			
	100%	\$0	\$0

PARTS A and B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
--Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0

PLAN B

MEDICARE (PART A) --HOSPITAL SERVICES--PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[760]	\$[760](Part A Deductible)	\$0
61st thru 90th day	All but \$[190] a day	\$[190] a day	\$0
91st day and after:			
--While using 60 lifetime reserve days	All but \$[380] a day	\$[380] a day	\$0
--Once lifetime reserve days are used:			
--Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
--Beyond the Additional 365 days	\$0	\$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$[95] a day	\$0	Up to \$[95] a day
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN B

MEDICARE (PART B) --MEDICAL SERVICES--PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES* IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES--BLOOD TESTS FOR DIAGNOSTIC SERVICES			
	100%	\$0	\$0

PARTS A and B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
--Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0

PLAN C

MEDICARE (PART A) --HOSPITAL SERVICES--PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[760]	\$[760](Part A Deductible)	\$0
61st thru 90th day	All but \$[190] a day	\$[190] a day	\$0
91st day and after:			
--While using 60 lifetime reserve days	All but \$[380] a day	\$[380] a day	\$0
--Once lifetime reserve days are used:			
--Additional 365 days		100% of Medicare Eligible Expenses	\$0
--Beyond the Additional 365 days	\$0	\$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			

First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$[95] a day	Up to \$[95] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN C

MEDICARE (PART B) --MEDICAL SERVICES--PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

MEDICAL EXPENSES*			
IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
First \$100 of Medicare Approved Amounts*	\$0	\$100(Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$100(Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES--BLOOD TESTS FOR DIAGNOSTIC SERVICES			
	100%	\$0	\$0

PARTS A and B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
--Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$100(Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0

OTHER BENEFITS--NOT COVERED BY MEDICARE

FOREIGN TRAVEL--NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN D

MEDICARE (PART A) --HOSPITAL SERVICES--PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[760]	\$[760](Part A Deductible)	\$0
61st thru 90th day	All but \$[190] a day	\$[190] a day	\$0
91st day and after:			
--While using 60 lifetime reserve days	All but \$[380] a day	\$[380] a day	\$0
--Once lifetime reserve days are used:			
--Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
--Beyond the Additional 365 days	\$0	\$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$[95] a day	Up to \$[95] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN D

MEDICARE (PART B) --MEDICAL SERVICES--PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES* IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.			

First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES--BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

(continued)

PLAN D (continued)
PARTS A and B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOME HEALTH CARE MEDICARE APPROVED SERVICES			
--Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
AT-HOME RECOVERY SERVICES--NOT COVERED BY MEDICARE Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
--Benefit for each visit	\$0	Actual Charges to \$40 a visit	Balance
--Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
--Calendar year maximum	\$0	\$1,600	

OTHER BENEFITS--NOT COVERED BY MEDICARE

FOREIGN TRAVEL--NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN E

MEDICARE (PART A) --HOSPITAL SERVICES--PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[760]	\$[760](Part A Deductible)	\$0
61st thru 90th day	All but \$[190] a day	\$[190] a day	\$0
91st day and after:			
--While using 60 lifetime reserve days	All but \$[380] a day	\$[380] a day	\$0
--Once lifetime reserve days are used:			
--Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
--Beyond the Additional 365 days	\$0	\$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$[95] a day	Up to \$[95] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN E

MEDICARE (PART B) --MEDICAL SERVICES--PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES* IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES--BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A and B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
--Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare approved Amounts	80%	20%	\$0

(continued)

PLAN E (continued)

OTHER BENEFITS--NOT COVERED BY MEDICARE

FOREIGN TRAVEL--NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
PREVENTIVE MEDICAL CARE BENEFIT--NOT COVERED BY MEDICARE Annual physical and preventive tests and services such as: fecal occult blood test, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare			
First \$120 each calendar year	\$0	\$120	\$0
Additional charges	\$0	\$0	All Costs

PLAN F

MEDICARE (PART A) --HOSPITAL SERVICES--PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[760]	\$[760](Part A Deductible)	\$0
61st thru 90th day	All but \$[190] a day	\$[190] a day	\$0
91st day and after:			
--While using 60 lifetime reserve days	All but \$[380] a day	\$[380] a day	\$0
--Once lifetime reserve days are used:			
--Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
--Beyond the Additional 365 days	\$0	\$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$[95] a day	Up to \$[95] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN F

MEDICARE (PART B) --MEDICAL SERVICES--PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES* IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare Approved Amounts*	\$0	\$100(Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	All Costs	\$0
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$100(Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES--BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A and B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
--Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$100(Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0

OTHER BENEFITS--NOT COVERED BY MEDICARE

FOREIGN TRAVEL--NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN G

MEDICARE (PART A) --HOSPITAL SERVICES--PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[760]	\$[760](Part A Deductible)	\$0
61st thru 90th day	All but \$[190] a day	\$[190] a day	\$0
91st day and after:			
--While using 60 lifetime reserve days	All but \$[380] a day	\$[380] a day	\$0
--Once lifetime reserve days are used:			
--Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
--Beyond the Additional 365 days	\$0	\$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All Approved amounts	\$0	\$0
21st thru 100th day	All but \$[95] a day	Up to \$[95] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN G

MEDICARE (PART B) --MEDICAL SERVICES--PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES* IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	80%	20%
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES--BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

(continued)

PLAN G (continued)
PARTS A and B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOME HEALTH CARE MEDICARE APPROVED SERVICES			
--Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--Durable medical equipment			\$100(Part B Deductible)
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0
AT-HOME RECOVERY SERVICES--NOT COVERED BY MEDICARE Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
--Benefit for each visit	\$0	Actual Charges to \$40 a visit	Balance
--Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
--Calendar year maximum	\$0	\$1,600	

OTHER BENEFITS--NOT COVERED BY MEDICARE

FOREIGN TRAVEL--NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN H

MEDICARE (PART A) --HOSPITAL SERVICES--PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[760]	\$[760](Part A Deductible)	\$0
61st thru 90th day	All but \$[190] a day	\$[190] a day	\$0
91st day and after:			
--While using 60 lifetime reserve days	All but \$[380] a day	\$[380] a day	\$0
--Once lifetime reserve days are used:			
--Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
--Beyond the Additional 365 days	\$0	\$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$[95] a day	Up to \$[95] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN H

MEDICARE (PART B) --MEDICAL SERVICES--PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES* IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES--BLOOD TESTS FOR DIAGNOSTIC SERVICES			
	100%	\$0	\$0

PARTS A and B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOME HEALTH CARE MEDICARE APPROVED SERVICES			
--Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0

(continued)

PLAN H (continued)
OTHER BENEFITS--NOT COVERED BY MEDICARE

FOREIGN TRAVEL--NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
BASIC OUTPATIENT PRESCRIPTION DRUGS--NOT COVERED BY MEDICARE			
First \$250 each calendar year	\$0	\$0	\$250
Next \$2,500 each calendar year	\$0	50%--\$1,250 calendar year maximum benefit	50%
Over \$2,500 each calendar year	\$0	\$0	All Costs

PLAN I

MEDICARE (PART A) --HOSPITAL SERVICES--PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[760]	\$[760](Part A Deductible)	\$0
61st thru 90th day	All but \$[190] a day	\$[190] a day	\$0
91st day and after:			
--While using 60 lifetime reserve days	All but \$[380] a day	\$[380] a day	\$0
--Once lifetime reserve days are used:			
--Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
--Beyond the Additional 365 days	\$0	\$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$[95] a day	Up to \$[95] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN I

MEDICARE (PART B) --MEDICAL SERVICES--PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES* IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	All Costs	\$0
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES--BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

(continued)

PLAN I (continued)
PARTS A and B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOME HEALTH CARE MEDICARE APPROVED SERVICES			
--Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
AT-HOME RECOVERY SERVICES--NOT COVERED BY MEDICARE Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
--Benefit for each visit	\$0	Actual Charges to \$40 a visit	Balance
--Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
--Calendar year maximum	\$0	\$1,600	

OTHER BENEFITS--NOT COVERED BY MEDICARE

FOREIGN TRAVEL--NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
BASIC OUTPATIENT PRESCRIPTION DRUGS--NOT COVERED BY MEDICARE			
First \$250 each calendar year	\$0	\$0	\$250
Next \$2,500 each calendar year	\$0	50%--\$1,250 calendar year maximum benefit	50%
Over \$2,500 each calendar year	\$0	\$0	All Costs

PLAN J

MEDICARE (PART A) --HOSPITAL SERVICES--PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[760]	\$[760](Part A Deductible)	\$0
61st thru 90th day	All but \$[190] a day	\$[190] a day	\$0
91st day and after:			
--While using 60 lifetime reserve days	All but \$[380] a day	\$[380] a day	\$0
--Once lifetime reserve days are used:			
--Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
--Beyond the Additional 365 days	\$0	\$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$[95] a day	Up to \$[95] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN J

MEDICARE (PART B) --MEDICAL SERVICES--PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES* IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.			
First \$100 of Medicare Approved Amounts*	\$0	\$100(Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	All Costs	\$0
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$100(Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES--BLOOD TESTS FOR DIAGNOSTIC SERVICES			
	100%	\$0	\$0

PARTS A and B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
--Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$100(Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0

(continued)

PLAN J (continued)
PARTS A and B (continued)

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOME HEALTH CARE(cont'd) AT-HOME RECOVERY SERVICES--NOT COVERED BY MEDICARE Home care certified by our doctor, for personal care beginning during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
--Benefit for each visit	\$0	Actual Charges to \$40 a visit	Balance
--Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$0	Up to the number of Medicare Approved visits, not to exceed 7 each week	\$1,600
--Calendar year maximum	\$0		

FOREIGN TRAVEL--NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
First \$250 each calendar year	\$0	\$0	\$250
Next \$6,000 each calendar year	\$0	50%--\$3,000 calendar year maximum benefit	50%
Over \$6,000 each calendar year	\$0	\$0	All Costs
PREVENTIVE MEDICAL CARE BENEFIT--NOT COVERED BY MEDICARE Annual physical and preventive tests and services such as: fecal occult blood test, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare			
First \$120 each calendar year	\$0	\$120	\$0
Additional charges	\$0	\$0	All Costs

D. Notice Regarding Policies or Certificates Which are Not Medicare Supplement Policies.

(1) Any accident and sickness insurance policy or certificate, other than a Medicare supplement policy, a policy issued pursuant to a contract under Section 1876 of the federal Social Security Act (42 U.S.C. 1395 et seq.), disability income policy; or other policy identified in Section 3.B of this regulation, issued for delivery in this state to persons eligible for Medicare shall notify insureds under the policy that the policy is not a Medicare supplement policy or certificate. The notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy, or certificate delivered to insureds. The notice shall be in no less than 12-point type and shall contain the following language:

"THIS [POLICY OR CERTIFICATE] IS NOT A MEDICARE SUPPLEMENT [POLICY OR CONTRACT]. If you are eligible for Medicare, review the *Guide to Health Insurance for People with Medicare* available from the company."

(2) Applications provided to persons eligible for Medicare for the health insurance policies or certificates described in Subsection D(1) shall disclose, using the applicable statement in Appendix C, the extent to which the policy duplicates Medicare. The disclosure statement shall be provided as a part of, or together with, the application for the policy or certificate.

Section 17. Requirements for Application Forms and Replacement Coverage

A. Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement or other health insurance policy or certificate in force or whether a Medicare supplement policy or certificate

is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing such questions and statements may be used.

An application for a Medicare supplement policy shall not be combined with an application for any other type of insurance coverage. The application may not make reference to or include questions regarding other types of insurance coverage except for those questions specifically required under this Section.

[Statements]

(1) You do not need more than one Medicare supplement policy.

(2) If you purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

(3) You may be eligible for benefits under Medicaid and may not need a Medicare supplement policy.

(4) The benefits and premiums under your Medicare supplement policy can be suspended, if requested during your entitlement to benefits under Medicaid for 24 months. You must request this suspension within 90 days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your policy will be reinstated if requested within 90 days of losing Medicaid eligibility.

(5) Counseling services may be available in your state to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the state Medicaid program including benefits as a Qualified Medicare Beneficiary (QMB) and a Specified Low-Income Medicare Beneficiary (SLMB).

[Questions]

To the best of your knowledge,

(1) Do you have another Medicare supplement policy or certificate in force?

(a) If so, with which company?

(b) If so, do you intend to replace your current Medicare supplement policy with this policy [certificate]?

(2) Do you have any other health insurance coverage that provides benefits similar to this Medicare supplement policy?

(a) If so, with which company?

(b) What kind of policy?

(3) Are you covered for medical assistance through the state Medicaid program:

(a) as a Specified Low-Income Medicare Beneficiary (SLMB)?

(b) as a Qualified Medicare Beneficiary (QMB)?

(c) for other Medicaid medical benefits?

B. Agents shall list any other health insurance policies they have sold to the applicant.

(1) List policies sold which are still in force.

(2) List policies sold in the past five years which are no longer in force.

C. In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, shall be returned to the applicant by the insurer upon delivery of the policy.

D. Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer, other than a direct response issuer, or its agent, shall furnish the applicant,

prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement coverage.

E. The notice required by Subsection D above for an issuer shall be provided in substantially the following form in no less than 12-point type:

NOTICE TO APPLICANT REGARDING REPLACEMENT
OF MEDICARE SUPPLEMENT INSURANCE
[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to terminate existing Medicare supplement insurance and replace it with a policy to be issued by [Company Name] Insurance Company. Your new policy will provide 30 days within which you may decide without cost whether you desire to keep the policy.

You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. If, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision, you should terminate your present Medicare supplement coverage. You should evaluate the need for other accident and sickness coverage you have that may duplicate this policy.

STATEMENT TO APPLICANT BY ISSUER, AGENT [BROKER OR OTHER REPRESENTATIVE]:

I have reviewed your current medical or health insurance coverage. To the best of my knowledge, this Medicare supplement policy will not duplicate your existing Medicare supplement coverage because you intend to terminate your existing Medicare supplement coverage. The replacement policy is being purchased for the following reason (check one):

- Additional benefits.
- No change in benefit, but lower premiums.
- Fewer benefits and lower premiums.
- Other. (please specify)

1. Health conditions which you may presently have (pre-existing conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate may not contain new pre-existing conditions, waiting periods, elimination periods or probationary periods. The insurer will waive any time periods applicable to pre-existing conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) to the extent such time was spent (depleted) under the original policy.

3. If, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. [If the policy or certificate is guaranteed issue, this Paragraph need not appear.]

Do not cancel your present policy until you have received your new policy and are sure that you want to keep it.

(Signature of Agent, Broker or Other Representative)*
[Typed Name and Address of Issuer, Agent or Broker]

(Applicant's Signature)

(Date)

*Signature not required for direct response sales.

F. Paragraphs 1 and 2 of the replacement notice (applicable to pre-existing conditions) may be deleted by an issuer if the replacement does not involve application of a new pre-existing condition limitation.

Section 18. Filing Requirements for Advertising

An issuer shall provide a copy of any Medicare supplement advertisement intended for use in this state whether through written, radio or television medium to the commissioner of Insurance of this state for review and approval by the commissioner to the extent permitted under the *Insurance Code*, particularly under R.S. 22:1215.

Section 19. Standards for Marketing

A. An issuer, directly or through its producers, shall:

(1) establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate;

(2) establish marketing procedures to assure excessive insurance is not sold or issued;

(3) display prominently by type, stamp or other appropriate means, on the first page of the policy the following:

"Notice to buyer: This policy may not cover all of your medical expenses."

(4) inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any such insurance;

(5) establish auditable procedures for verifying compliance with this Subsection A.

B. In addition to the practices prohibited in R.S. 22:1211 et seq. the following acts and practices are prohibited:

(1) Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.

(2) High Pressure Tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(3) Cold Lead Advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

C. The terms "Medicare Supplement," "Medigap," "Medicare Wrap-Around" and words of similar import shall not be used unless the policy is issued in compliance with this regulation.

D. No insurer providing Medicare supplement insurance in this state shall allow its agent to accept premiums except by check, money order, or bank draft made payable to the insurer. If payment in cash is made, the agent must leave the insurer's official receipt with the insured or the person paying the premium on behalf of the insured. This receipt shall bind the insurer for the monies received by the agent.

Under this Section, the agent is prohibited from accepting checks, money orders and/or bank drafts payable to the agent or his agency. The agent is not to leave any receipt other than the insurer's for premium paid in cash.

Section 20. Appropriateness of Recommended Purchase and Excessive Insurance

A. In recommending the purchase or replacement of any Medicare supplement policy or certificate an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

B. Any sale of Medicare supplement coverage that will provide an individual more than one Medicare supplement policy or certificate is prohibited.

Section 21. Reporting of Multiple Policies

A. On or before March 1 of each year, an issuer shall report the following information for every individual resident of this state for which the issuer has in force more than one Medicare supplement policy or certificate:

- (1) policy and certificate number, and
- (2) date of issuance.

B. The items set forth above must be grouped by individual policyholder.

Section 22. Prohibition Against Pre-existing Conditions, Waiting Periods, Elimination Periods and Probationary Periods in Replacement Policies or Certificates

A. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing issuer shall waive any time periods applicable to pre-existing conditions, waiting periods, elimination periods and probationary periods in the new Medicare supplement policy or certificate to the extent such time was spent under the original policy.

B. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate which has been in effect for at least six months, the replacing policy shall not provide any time period applicable to pre-existing conditions, waiting periods, elimination periods and probationary periods.

Section 23. Separability

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 24. Effective Date

The revisions to this regulation shall become effective on January 20, 1998.

Appendix A

MEDICARE SUPPLEMENT REFUND CALCULATION FORM
FOR CALENDAR YEAR _____

Type¹ _____ SMSBP² _____
 For the State of _____ Company Name _____
 NAIC Group Code _____ NAIC Company Code _____
 Address _____ Person Completing Exhibit _____
 Title _____ Telephone Number _____

	(a)	(b)
	Earned	Incurred
	Premium ³	Claims ⁴

line ----

1. Current Year's Experience
 - a. Total (all policy years) _____
 - b. Current year's issues⁵ _____
 - c. Net (for reporting purposes = 1a - 1b) _____
2. Past Years' Experience (All Policy Years) _____
3. Total Experience (Net Current Year + Past Year's (Experience) _____
4. Refunds Last Year (Excluding Interest) _____
5. Previous Since Inception (Excluding Interest) _____
6. Refunds Since Inception (Excluding Interest) _____
7. Benchmark Ratio Since Inception (SEE WORKSHEET FOR RATIO 1) _____
8. Experienced Ratio Since Inception _____

Total Actual Incurred Claims (line 3, col. b) = Ratio 2

 Total Earned Prem. (line 3, col. a) - Refunds Since Inception (line 6)

9. Life Years Exposed Since Inception _____
 If the Experienced Ratio is less than the Benchmark Ratio, and there are more than 500 life years exposure, then proceed to calculation of refund.
10. Tolerance Permitted (obtained from credibility table) _____

Medicare Supplement Credibility Table

Life Years Exposed Since Inception	Tolerance
10,000 +	0.0%
5,000 - 9,999	5.0%
2,500 - 4,999	7.5%
1,000 - 2,499	10.0%
500 - 999	15.0%

If less than 500, no credibility.

MEDICARE SUPPLEMENT REFUND CALCULATION FORM
FOR CALENDAR YEAR _____

Type¹ _____ SMSBP² _____
 For the State of _____ Company Name _____
 NAIC Group Code _____ NAIC Company Code _____
 Address _____ Person Completing Exhibit _____
 Title _____ Telephone Number _____

11. Adjustment to Incurred Claims for Credibility _____

Ratio 3 = Ratio 2 + Tolerance

If Ratio 3 is more than Benchmark Ratio (Ratio 1), a refund or credit to premium is not required.

If Ratio 3 is less than the Benchmark Ratio, then proceed.

12. Adjusted Incurred Claims _____

[Total Earned Premiums (line 3, col. a) - Refunds Since Inception (line 6)] X Ratio 3 (line 11)

13. Refund = Total Earned Premiums (line 3, col. a) - Refunds Since Inception (line 6) -

Adjusted Incurred Claims (line 12)

 Benchmark Ratio (Ratio 1) _____

If the amount on line 13 is less than .005 times the annualized premium in force as of December 31 of the reporting year, then no refund is made. Otherwise, the amount on line 13 is to be refunded or credited, and a description of the refund and/or credit against premiums to be used must be attached to this form.

¹Individual, group, individual Medicare Select, or group Medicare Select only

²"SMSBP" = Standardized Medicare Supplement Benefit Plan

³Includes Modal Loadings and Fees Charged

⁴Excludes Active Life Reserves

⁵This is to be used as "Issue Year Earned Premium" for Year 1 of next year's "Worksheet for Calculation of Benchmark Ratios"

I certify that the above information and calculations are true and accurate to the best of my knowledge and belief.

Signature

Name - Please Type

Title

Date

REPORTING FORM FOR THE CALCULATION OF BENCHMARK
RATIO SINCE INCEPTION FOR **GROUP** POLICIES
FOR CALENDAR YEAR _____

Type¹ _____ SMSBP² _____
For the State of _____ Company Name _____
NAIC Group Code _____ NAIC Company Code _____
Address _____ Person Completing Exhibit _____
Title _____ Telephone Number _____

(a) ³	(b) ⁴	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(o) ⁵
Year	Earned Premium	Factor	(b)x(c)	Cumulative Loss Ratio	(d)x(e)	Factor	(b)x(g)	Cumulative Loss Ratio	(h)x(i)	Policy Year Loss Ratio
1		2.770		0.507		0.000		0.000		0.46
2		4.175		0.567		0.000		0.000		0.63
3		4.175		0.567		1.194		0.759		0.75
4		4.175		0.567		2.245		0.771		0.77
5		4.175		0.567		3.170		0.782		0.80
6		4.175		0.567		3.998		0.792		0.82
7		4.175		0.567		4.754		0.802		0.84
8		4.175		0.567		5.445		0.811		0.87
9		4.175		0.567		6.075		0.818		0.88
10		4.175		0.567		6.650		0.824		0.88
11		4.175		0.567		7.176		0.828		0.88
12		4.175		0.567		7.655		0.831		0.88
13		4.175		0.567		8.093		0.834		0.89
14		4.175		0.567		8.493		0.837		0.89
15		4.175		0.567		8.684		0.838		0.89
Total:			(k):		(l):		(m):		(n):	

Benchmark Ratio Since Inception: $(l + n)/(k + m)$: _____

¹Individual, Group, Individual Medicare Select, or Group Medicare Select Only.

²"SMSBP" = Standardized Medicare Supplement Benefit Plan - Use "P" for pre-standardized plans

³Year 1 is the current calendar year - 1. Year 2 is the current calendar year - 2 (etc.) (Example: If the current year is 1991, then: Year 1 is 1990; Year 2 is 1989, etc.)

⁴For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.

⁵These loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

**REPORTING FORM FOR THE CALCULATION OF BENCHMARK
RATIO SINCE INCEPTION FOR INDIVIDUAL POLICIES
FOR CALENDAR YEAR _____**

Type¹ _____ SMSBP² _____
 For the State of _____ Company Name _____
 NAIC Group Code _____ NAIC Company Code _____
 Address _____ Person Completing Exhibit _____
 Title _____ Telephone Number _____

(a) ³ Year	(b) ⁴ Earned Premium	(c) Factor	(d) (b)x(c)	(e) Cumulative Loss Ratio	(f) (d)x(e)	(g) Factor	(h) (b)x(g)	(i) Cumulative Loss Ratio	(j) (h)x(i)	(o) ⁵ Policy Year Loss Ratio
1		2.770		0.442		0.000		0.000		0.40
2		4.175		0.493		0.000		0.000		0.55
3		4.175		0.493		1.194		0.659		0.65
4		4.175		0.493		2.245		0.669		0.67
5		4.175		0.493		3.170		0.678		0.69
6		4.175		0.493		3.998		0.686		0.71
7		4.175		0.493		4.754		0.695		0.73
8		4.175		0.493		5.445		0.702		0.75
9		4.175		0.493		6.075		0.708		0.76
10		4.175		0.493		6.650		0.713		0.76
11		4.175		0.493		7.176		0.717		0.76
12		4.175		0.493		7.655		0.720		0.77
13		4.175		0.493		8.093		0.723		0.77
14		4.175		0.493		8.493		0.725		0.77
15		4.175		0.493		8.684		0.725		0.77
Total:			(k):		(l):		(m):		(n):	

Benchmark Ratio Since Inception: $(1 + n)/(k + m)$: _____

¹Individual, Group, Individual Medicare Select, or Group Medicare Select Only.

²"SMSBP" = Standardized Medicare Supplement Benefit Plan - Use "P" for pre-standardized plans

³Year 1 is the current calendar year - 1. Year 2 is the current calendar year - 2 (etc.) (Example: If the current year is 1991, then: Year 1 is 1990; Year 2

is 1989, etc.)⁴For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.⁵These loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

Appendix B

FORM FOR REPORTING
MEDICARE SUPPLEMENT POLICIES

Company Name: _____

Address: _____

Phone Number: _____

Due: March 1, annually

The purpose of this form is to report the following information on each resident of this state who has in force more than one Medicare Supplement policy or certificate. The information is to be grouped by individual policyholder.

Policy and Certificate #	Date of Issuance

Signature

Name and Title (please type)

Date

Appendix C

DISCLOSURE STATEMENTS

**Instructions for Use of the Disclosure Statements for
Health Insurance Policies Sold to Medicare Beneficiaries
that Duplicate Medicare**

1. Federal law, P.L. 103-432, prohibits the sale of a health insurance policy (the term policy or policies includes certificates) that duplicate Medicare benefits unless it will pay benefits without regard to other health coverage and it includes the prescribed disclosure statement on or together with the application.

2. All types of health insurance policies that duplicate Medicare shall include one of the attached disclosure

statements, according to the particular policy type involved, on the application or together with the application. The disclosure statement may not vary from the attached statements in terms of language or format (type size, type proportional spacing, bold character, line spacing, and usage of boxes around text).

3. State and federal law prohibits insurers from selling a Medicare Supplement policy to a person that already has a Medicare Supplement policy except as a replacement.

4. Property/casualty and life insurance policies are not considered health insurance.

5. Disability income policies are not considered to provide benefits that duplicate Medicare.

6. The federal law does not pre-empt state laws that are more stringent than the federal requirements.

7. The federal law does not pre-empt existing state from filing requirements.

**THIS INSURANCE DUPLICATES SOME MEDICARE
BENEFITS**

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

- hospital or medical expenses up to the maximum stated in the policy
- Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, view the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[For policies that provide benefits for specified limited services]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE
BENEFITS**

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- any of the services covered by the policy are also covered by Medicare

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[For policies that reimburse expenses incurred for specified disease(s) or other specified impairment(s). This includes expense incurred cancer, specified disease and other types of health insurance policies that limit reimbursement to named medical conditions.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE
BENEFITS**

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health

conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

- hospital or medical expenses up to the maximum stated in the policy

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice
- other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[For policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE
BENEFITS**

This is not Medicare Supplement Insurance

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits because Medicare generally pays for most of the expenses for the diagnosis and treatment of the specific conditions or diagnoses named in the policy.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice
- other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[For policies that provide benefits for both expenses incurred and fixed indemnity basis]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE
BENEFITS**

This is not Medicare Supplement Insurance

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- any expenses or services covered by the policy are also covered by Medicare; or
- it pays the fixed dollar amount stated in the policy and Medicare covers the same event

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice
- other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health*

Insurance for People with Medicare, available from the insurance company.

- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[For policies that provide benefits for both expenses incurred and fixed indemnity basis]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE
BENEFITS**

This is not Medicare Supplement Insurance

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- any expenses or services covered by the policy are also covered by Medicare; or
- it pays the fixed dollar amount stated in the policy and Medicare covers the same event

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice care
- other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[For long-term care policies providing both nursing home and noninstitutional coverage]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE
BENEFITS**

This is not Medicare Supplement Insurance

Federal law requires us to inform you that this insurance duplicates Medicare benefits in some situations.

This is long-term care insurance that provides benefits for covered nursing home and home care services.

- In some situations Medicare pays for short periods of skilled nursing home care, limited home health services and hospice care.
- This insurance does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Neither Medicare nor Medicare Supplement insurance provides benefits for most long-term care expenses.

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about long-term care insurance, review the *Shopper's Guide to Long Term Care Insurance*, available from the insurance company.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[For policies providing nursing home benefits only]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE
BENEFITS**

This is not Medicare Supplement Insurance

Federal law requires us to inform you that this insurance duplicates Medicare benefits in some situations.

- This insurance provides benefits primarily for covered nursing home services.
- In some situations Medicare pays for short periods of skilled nursing home care and hospice care.
- This insurance does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Neither Medicare nor Medicare Supplement insurance provides benefits for most nursing home expenses.

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.

- ✓ For more information about long-term care insurance, review the *Shopper's Guide to Long Term Care Insurance*, available from the insurance company.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[For policies providing home care benefits only]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE
BENEFITS**

This is not Medicare Supplement Insurance

Federal law requires us to inform you that this insurance duplicates Medicare benefits in some situations.

- This insurance provides benefits primarily for covered home care services.
- In some situations, Medicare will cover some health related services in your home and hospice care which may also be covered by this insurance.
- This insurance does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Neither Medicare nor Medicare Supplement insurance provides benefits for most services in your home.

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about long-term care insurance, review the *Shopper's Guide to Long Term Care Insurance*, available from the insurance company.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[For other health insurance policies not specifically identified in the previous statements]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE
BENEFITS**

This is not Medicare Supplement Insurance

This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

- the benefits stated in the policy and coverage for the same event is provided by Medicare

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice care
- other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

The proposed amendments to Regulation 33 are to become effective January 20, 1998. A public hearing on this proposed regulation will be held on November 25, 1997, in the Plaza Hearing Room of the Insurance Building located at 950 North Fifth Street, Baton Rouge, LA, at 10 a.m. All interested persons will be afforded an opportunity to make oral comments.

Interested persons may obtain a copy of this proposed regulation from and may submit written comments to Yolanda M. Edwards, Staff Attorney, Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214, telephone (504) 342-0112 or by FAX to (504) 342-7401. Comments will be accepted through the close of business at 4:30 p.m., November 25, 1997.

James H. "Jim" Brown
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Regulation 33—Medicare Supplement
Insurance Minimum Standards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing this proposed revision. Any new duties imposed upon the department by this proposed revision would be handled by existing personnel.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Adoption of this proposed revision will not have any effect on revenue collections by state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Data available are insufficient to determine the effect this proposed revision would have on insurers and/or insureds.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is not anticipated that this proposed revision would have any effect on employment or competition.

Brenda St. Romain
Assistant Commissioner
Management and Finance
9710#065

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Justice
Office of the Attorney General**

**Health Care Cooperative Agreements:
Certificates of Public Advantage for Antitrust
Exceptions (LAC 48:XXV.Chapter 1)**

In accordance with R.S. 49:950 et seq., the attorney general is proposing to adopt the following rule governing Health Care Cooperative Agreements: Certificates of Public Advantage for Antitrust Exceptions. The purpose of the rule is to set forth procedures for the application, authorization, and regulation of health care cooperative agreements pursuant to R.S. 40:2254.1-12.

Title 48

PUBLIC HEALTH—GENERAL

Part XXV. Mergers, Acquisitions, and Re-Organization

Chapter 1. Health Care Cooperative Agreements:

**Certificates of Public Advantage for
Antitrust Exceptions**

§101. Purpose

A. These rules are adopted relative to the granting of certificates of public advantage and in order to set forth procedures for the application, authorization, and regulation of health care cooperative agreements pursuant to R.S. 40:2254.1-12.

B. These rules are adopted to further Louisiana's goal of controlling health care costs and improving the quality of and access to health care for its citizens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§103. Definitions

A. The following terms, as used in this Chapter, have the meanings listed below:

Anniversary Date—the date on which a certificate of public advantage is granted.

Applicant(s)—the party or parties to a cooperative agreement, merger, joint venture, or consolidation which apply for a certificate of public advantage.

Certificate—a certificate of public advantage.

Certified Mail—uninsured first-class mail whose delivery is recorded by having the addressee sign for it.

Comment—a written document offering explanation, illustration, criticism, or personal opinion.

Days—consecutive calendar days.

Department—the Louisiana Department of Justice, Office of the Attorney General.

Director—the director of the Civil Division of the department.

Objection—a written document offered in opposition to the granting of a certificate of public advantage which states the reason, grounds, or cause for expressing opposition.

Persons on Record—persons submitting written documentation to the director, by certified mail, stating objections, comments, or requests for notification of actions by the department involving a particular certificate of public advantage. Persons on record status must be renewed by written request, sent by certified mail to the director, prior to December 31 of each calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§105. Application

A. Only health care facilities, as defined in R.S. 40:2254.2, which are parties to a cooperative agreement may file an application with the department for a certificate governing the cooperative agreement.

B. Only licensed health care facilities may be parties to the cooperative agreement.

C. The cooperative agreement must be executed by all parties to the cooperative agreement.

D. The application shall be filed jointly by all parties to the cooperative agreement; however, the parties shall designate one person to be the contact person with the department.

E. The application must include:

1. Contents of Application. An application for approval must include, to the extent applicable, the following:

a. a descriptive title;

b. a table of contents;

c. exact names of each party to the application and the address of the principal business office of each party;

d. the name, address, and telephone number of the persons authorized to receive notices and communications with respect to the application;

e. a notarized statement by a responsible officer of each party to the application attesting to the accuracy and completeness of the enclosed information;

f. background information relating to the proposed arrangement, including:

i. a description of the proposed arrangement, including a list of any services or products that are the subject of the proposed arrangement;

ii. an identification of any tangential services or products associated with the services or products that are the subject of the proposed arrangement;

iii. a description of the geographic territory involved in the proposed arrangement;

iv. a description of how and why the geographic territory differs, if the geographic territory described in §105.E.1.f.iii is different from the territory in which the applicants have engaged in the type of business at issue over the last five years;

v. identification of all products or services that a substantial share of consumers would consider substitutes for any service or product that is the subject of the proposed arrangement;

vi. identification of whether any services or products of the proposed arrangement are currently being offered, capable of being offered, utilized, or capable of being utilized by other providers or purchasers in the geographic territory described in §105.E.1.f.iii;

vii. identification of the steps necessary, under current market and regulatory conditions, for other parties to enter the territory described in §105.E.1.f.iii and compete with the applicant;

viii. a description of the previous history of dealings between the parties to the application;

ix. a detailed explanation of the projected effects, including expected volume, change in price, and increased revenue of the arrangement on each party's current business, both generally, as well as the aspects of the business directly involved in the proposed arrangement;

x. the present market share of the parties to the application and of others affected by the proposed arrangement and projected market shares after implementation of the proposed arrangement;

xi. a statement of why the projected levels of cost, access, or quality could not be achieved in the existing market without the proposed arrangement; and

xii. an explanation of how the arrangement relates to any Louisiana health care authority, commission or board plans for delivery of health care; and

xiii. a detailed explanation of how the transaction will affect cost, access, and quality. The explanation must address the factors in §105.E.2;

2. Attachments

a. Attach, as Appendix A, a copy of the proposed or executed cooperative, merger, joint venture, or consolidation agreement; a description of the scope of the cooperation, merger, joint venture, or consolidation contemplated by the agreement; and the amount, nature, source, and recipient of any consideration passing to any person under the terms of the agreement. A copy of any and all attachments, amendments,

schedules or appendices to such documents must be included.

b. Attach, as Appendix B, any and all letters of intent, confidentiality agreements, or other documents initiating negotiations, contact, or discussions relating to the transaction.

c. Attach, as Appendix C, the following documents with respect to each meeting, whether regular, special, or otherwise, of the board of directors or board of trustees of all parties to the transaction regarding the transaction:

i. announcements and the persons to whom the announcements were sent;

ii. agendas;

iii. minutes and/or resolutions of the board of directors or board of trustees which reflect or discuss the proposed transaction, including those regarding the final vote;

iv. each written report or document provided to the board(s) or board members, including, but not limited to, each committee report and each expert's report;

v. each proposal or document referencing or regarding the proposed or executed cooperative merger, joint venture or consolidation of the parties to the agreement;

vi. each presentation to the board or any committee to the board; and

vii. each attachment to §105.E.2.c.i-vi;

3. Cost, Access, and Quality

a. Cost

i. Provide an analysis of cost that focuses on the individual consumer of health care. Cost savings to be realized by providers, health carriers, group purchasers, or other participants in the health care system are relevant only to the extent that the savings are likely to be passed on to the consumer. However, where an application is submitted by providers or purchasers who are paid primarily by third-party payers unaffiliated with the applicant, it is sufficient for the applicant to show that cost savings are likely to be passed on to the unaffiliated third-party payers;

ii. the analysis of cost must also take into consideration:

(a). the cost savings likely to result to the applicant;

(b). the extent to which the cost savings are likely to be passed on to the consumer and in what form;

(c). the extent to which the proposed arrangement is likely to result in cost shifting by the applicant onto other payers or purchasers of other products or services;

(d). the extent to which the cost shifting by the applicant is likely to be followed by other persons in the market;

(e). the current and anticipated supply and demand for any products or services at issue;

(f). the representations and guarantees of the applicant and their enforceability;

(g). likely effectiveness of regulation by the department;

(h). inferences to be drawn from market structure;

(i). the cost of regulation, both for the state and for the applicant;

(j). any other factors tending to show that the proposed arrangement is or is not likely to reduce cost.

b. Access. Provide an analysis as to access, including:
i. the extent to which the utilization of needed health care services or products by the intended targeted population is likely to increase or decrease. When a proposed arrangement is likely to increase access in one geographic area by lowering prices or otherwise expanding supply, but limits access in another geographic area by removing service capabilities from that second area, the analysis shall address criteria employable to balance these effects;

ii. the extent to which the proposed arrangement is likely to make available a new and needed service or product to a certain geographic area; and

iii. the extent to which the proposed arrangement is likely to otherwise make health care services or products more or less financially or geographically available to persons who need them;

c. Quality. Provide an analysis as to quality, including the extent to which the proposed arrangement is likely to:

- i. increase or decrease morbidity and mortality;
- ii. result in faster or slower convalescence;
- iii. result in fewer or greater hospital days;
- iv. permit providers to attain needed experience or frequency of treatment, likely to lead to better outcomes;
- v. increase patient satisfaction; and
- vi. have any other features likely to improve or reduce the quality of health care.

4. Joint Application. For a proposed arrangement involving multiple parties, one joint application must be submitted on behalf of all parties to the arrangement.

5. Additional Information

a. The department may, at any time, request any or all other supplemental or additional documentation, disclosures, information, etc., as it deems necessary to the evaluation.

b. Applications must be in the following format:

i. application pages shall be numbered and printed on paper measuring 8½" x 11". The margins shall not be less than 1 inch on all sides. Unless otherwise required, all applications shall be printed on white paper;

ii. trade secret information shall be printed on goldenrod colored paper to assist in identifying material exempt from Louisiana's Public Record Act;

iii. applications which do not comply with these rules shall not be accepted for filing and returned to the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§107. Filing of Applications and Additional Documents

A. Filing of Applications

1. Applications shall be filed by presenting an original and five copies to the director.

2. The filing date of a conforming application shall be deemed to be the date the department determines the application to be a completed application.

3. No application shall be filed by facsimile machine.

4. Applications filed with the department become property of the state.

5. Applications shall be accompanied with the filing fee as determined by §109 of these rules, in accordance with R.S. 40:2254.12.

B. Filing of Additional Documents

1. Format required for filing of additional documents shall be in accord of §105.E.5.b of these rules.

2. Documents relating to an application shall be filed by presenting an original and five copies to the director.

3. Additional documents to an application may be accepted by facsimile machine, provided an original and five copies are received by the director no later than seven days after transmission of the facsimile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§109. Fees

A. Remittance of Fees

1. In accordance with R.S. 40:2254.12, fees shall be remitted with the application for a certificate and for reports required by R.S. 40:2254.11. Fees shall be reasonably related to the costs of the department in considering the application, evaluating reports, and performing other necessary administrative duties.

2. Fees must be remitted only by certified check, cashier's check, or bank money order made payable to the department.

3. The fee shall be due with the application for a certificate. The fee shall be \$20,000. If the actual cost incurred by the department is greater, the applicant shall pay additional amounts due as instructed by the department.

4. The fee due with the filing of the report, as required by R.S. 40:2254.11, shall be \$5000. If the actual cost incurred by the department is greater, parties shall pay additional amounts due as instructed by the department.

B. If it becomes necessary for the department to file suit to enforce any provision of applicable law, these rules, or any of the terms of a certificate, then applicants/parties shall be responsible for all costs associated with any such litigation, including, but not limited to, all court costs and attorneys' fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§111. Notification of Pending Action

A. Upon acceptance of the application as complete, the department shall provide notice to the public and all persons on record. At least 15 days prior to the scheduled public hearing, the department shall publish in the official journal of the state of Louisiana a notice of the filing and the location, date and time of the public hearing to be held in Baton Rouge, Louisiana;

B. The department shall publish substantially similar notice in the official journal of the affected parish(es) at least 15 days prior to the date of the hearing. Affected parish(es) are defined as those parish(es) contained in the geographic territory involved in the proposed arrangement;

C. At the public hearing, all interested persons shall be allowed to present testimony, facts, or evidence related to the application or to ask questions. The department shall also receive comments regarding the transaction from any interested person;

D. If requested by the department, persons required to appear and testify under oath shall include, but not be limited to:

1. any expert or consultant retained by the applicant to prepare the financial and economic analysis of the proposed transaction;

2. any independent expert or consultant retained by the department to review the proposed transaction regarding his or her finding and analysis;

3. parties to the agreement, officers, and members of the governing boards of the facilities involved;

E. The department may require additional information or testimony from other persons, including but not limited to, members of the medical staff, nursing staff, contract employees, architects, engineers, other employees, or contractors of the facilities involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§113. Comment Period

Comments to a pending application shall be in accord with the following:

1. within 15 days after the public hearing, any person may file comments with the department with respect to the application;

2. any comment regarding a specific provision of the application should designate the specific page number(s) of the application;

3. the filing date of comments shall be the date stamped "received" by the department;

4. comments may be filed by facsimile machine;

5. comments on file with the department become the property of the state;

6. responses to comments must be received by the department no later than 21 days after the public hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§115. Application Review

A. If the department determines that an application is unclear, incomplete, or contains an insufficient basis upon which to provide a decision, the application shall be returned to the applicant;

B. If an application is returned to the applicant and the applicant will be resubmitting the application for further review, the filing fee shall remain deposited;

C. If an application is returned and the applicant elects not to resubmit an amended application, the department shall return the filing fee submitted with the application, less costs associated with the review process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§117. Final Decision

A. Any approval shall be conditioned upon the periodic submission of specific data relating to cost, access, and quality, and to the extent feasible, identify objective standards of cost, access, and quality by which the success of the arrangement will be measured.

B. The final decision shall be in writing and be based upon findings of fact and conclusions of law supporting the decision.

C. The department may condition approval on a modification of all or part of the proposed arrangement.

D. A copy of the final decision shall be sent, by certified mail, to the applicant. All persons on record shall be provided notice of the decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§119. Reports and Ongoing Supervision of Certificates

A. In accordance with R.S. 40:2254.11, parties shall submit information and supporting data on an annual basis regarding the current status of the agreement, including information relative to the continued benefits, any disadvantages of the agreement, and sufficient information to evaluate whether any terms and conditions imposed by the department have been met or otherwise satisfied. Reports shall be due on or before the annual anniversary date of the certificate. In addition, reports shall be submitted more frequently as required by the department. Parties are under a continuing obligation to provide the department with any change to the information contained in the application subsequent to the granting of the certificate. Such information shall be provided to the department in a timely fashion or within a reasonable time that such information is known to the parties.

B. The information and supporting data that must be submitted to the department shall include, but not be limited to, the following:

1. an update of all the information required by the application;

2. a statement concerning how and why the benefits resulting from the cooperative agreement outweigh any disadvantages attributable to a reduction in competition resulting from the agreement;

3. any change in the geographic territory that is served by the health care equipment, facilities, personnel, or services which are subject of the certificate of public advantage;

4. a detailed explanation of the actual effects of the agreement on each party, including any change in volume, market share, prices, and revenues;

5. an explanation of how the cooperative agreement has impacted the ability of health care payers to negotiate optimal payment and service arrangements with health care providers;

6. a detailed explanation of how the cooperative agreement has affected the cost, access, and quality of services provided by each party;

7. a signed, notarized certificate by each party to the agreement that the benefits or likely benefits of the certificate of public advantage continue to outweigh the disadvantages or likely disadvantages of any reduction in competition from the agreement;

8. any additional information requested by the department.

C. Requested data shall be in the following format:

1. the page shall be numbered and printed on paper measuring 8½" x 11". The margins shall not be less than 1 inch on all sides. Unless otherwise required, all data shall be printed on white paper;

2. trade secret information shall be designated and printed on goldenrod colored paper to assist identifying material exempt from the Louisiana Public Records Law.

D. The department may, at any time, require the submission of additional data or alter the time schedule for submission of information. The parties shall be notified, by certified mail, of any requirement for the submission of additional information or alteration of the time for submission of materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§121. Reconsideration

If the department denies an application, the department shall reconsider its decision if the party applying for reconsideration delivers to the department a request, in writing. The written request must be delivered on or before the thirtieth day after the department's decision to deny. The delivery is to be made to the Louisiana Department of Justice, Civil Division, 301 Main Street, One American Place, Sixth Floor, Baton Rouge, LA 70801.

1. To the extent applicable, requests for reconsideration shall conform to the application format.

2. Upon receipt of a completed request for reconsideration, the department shall provide notice to the public and all persons on record. At least 15 days prior to the scheduled public hearing, the department shall publish in the official journal of the state of Louisiana and in the official journal of the affected parish(es), a notice of the request and the location, date and time of the public hearing to be held in Baton Rouge, Louisiana.

3. A copy of the decision shall be sent, by certified mail, to the applicant. All persons on record shall be provided notice of the decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§123. Revocation of Approval

A. Any action for revocation shall be conducted in accordance with the provisions of R.S. 40:2254.6 and the following:

1. a proceeding to revoke approval shall be initiated by the department providing notice in writing, by certified mail, to the parties to the agreement;

2. upon request of the parties, by certified mail to the department, a public hearing shall be provided prior to

revocation, to determine whether or not to revoke the certificate;

3. if a public hearing is timely requested, at least 15 days prior to the scheduled public hearing, the department shall publish in the official journal of the state of Louisiana, and in the official journal of the affected parish(es), a notice of the request and the location, date and time of the public hearing to be held in Baton Rouge, Louisiana;

4. a copy of the decision shall be sent, by certified mail, to the parties. All persons on record shall be provided notice of the decision.

B. Notwithstanding the provisions of §121, in accordance with R.S. 40:2254(D), any amendment to a cooperative, merger, or consolidation agreement and any material change in the operations or conduct of any party to a cooperative, merger, joint venture, or consolidation shall be considered to be a new agreement and shall not take effect or occur until the department has issued a new certificate approving the amendment or change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

Any interested person may submit written comments regarding the contents of the proposed rule to Kay Kirkpatrick, Deputy Attorney General, Civil/Gaming Program, Attorney General's Office, Box 94005, Baton Rouge, LA 70801-94005. All comments must be received no later than 5 p.m., November 20, 1997.

Kay Kirkpatrick
Deputy Attorney General

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Health Care Cooperative Agreements: Certificates of Public Advantage for Antitrust Exceptions

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

The increased costs to the Department of Justice are estimated to be \$174,700 for FY 97-98 and will decrease to \$154,478 and \$155,403 in the subsequent fiscal years. The costs to the department will be offset by the imposition of fees generated by the proposed rules. There will be no effect on local governmental units.

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

The fees imposed by the proposed rules will be \$20,000 which is due with the application. The fees generated should be sufficient to implement the proposed action. If the actual cost incurred by the department is greater, the applicant shall pay additional amounts due as instructed by the department. The rules will have no effect on revenue collections for local governments.

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

Health care facilities entering into cooperative agreements can apply to receive immunity from prosecution of violations of antitrust laws if they meet criteria of providing cheaper and better health care to consumers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These rules implement legislation that allows for granting antitrust immunity to health care facilities if it can be demonstrated that to do so will benefit consumers. To the extent that such immunity is granted, it may have the effect of decreasing competition within a particular market area.

Kay Kirkpatrick
Deputy Attorney General
9710#107

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation
Engineering Division**

**Austin Chalk Formation
(LAC 43:XIX.Chapter 43)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby proposes the adoption of Statewide Order No. 29-S (LAC 43:XIX.Subpart 18.Chapter 43).

The proposed rule is to become effective upon publication of the final rule in the *Louisiana Register*. The text of the proposed rule can be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

In accordance with the provisions of R.S. 49:950 et seq., and R.S. 30:4, notice is hereby given that the commissioner of Conservation will conduct a public hearing at 9 a.m. on Wednesday, November 26, 1997, in the Conservation Auditorium, located on the first floor of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

At such hearing the commissioner of Conservation shall consider the promulgation of said Statewide Order No. 29-S which establishes rules for the exploration and development of the Austin Chalk Formation using horizontal wells within the state of Louisiana.

If accommodations are required under the Americans with Disabilities Act, contact the Department of Natural Resources, Personnel Section, Box 94396, Baton Rouge, LA 70804-9396 in writing or by telephone at (504) 342-2134 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday within 10 working days of the hearing date.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at said public hearing in accordance with R.S. 49:953.

Written comments will be accepted until 4:30 p.m., Wednesday, December 3, 1997 by Jim Welsh, Assistant Commissioner, Office of Conservation, Engineering Division, Room 102, Box 94275, Baton Rouge, LA 70804-9275. Reference Docket Number 97-678, Statewide Order No. 29-S when making inquiries about this proposed rule.

**James H. Welsh
Assistant Commissioner**

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Austin Chalk Formation

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation cost (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no cost and/or economic benefit to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

George L. Carmouche
Commissioner
9710#099

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Riverboat Gaming—Definitions (LAC 42:XIII.1701);
Licenses and Permits (LAC 42:XIII.2133, 2141, and 2169)

The Gaming Control Board hereby gives notice that it intends to amend LAC 42:XIII.1701, 2133, 2141, and 2169, in accordance with R.S. 27:1 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part XIII. Riverboat Gaming

Chapter 17. General Provisions

§1701. Definitions

* * *

Designated Gaming Area—those portions of a riverboat in which gaming activities may be conducted, which shall be determined by measuring the area (in square feet) inside the interior walls of the riverboats, excluding any space therein in which gaming activities may not be conducted, such as bathrooms, stairwells, cage and beverage area, and emergency evacuation routes. Such designated gaming area shall not exceed 60 percent of the total square footage of the passenger access area of the vessel or 30,000 square feet, whichever is lesser, and plans, therefore, shall be submitted to and approved by the board.

* * *

Emergency Evacuation Route—those areas within the designated gaming area of a riverboat which are clearly defined and identified by the licensee as necessary and approved by the United States Coast Guard for the evacuation

of passengers and crew from the riverboat, and from which and in which no gaming activity may be conducted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:

Chapter 21. Licenses and Permits

§2133. License Term and Filing of Application

A. Initial licenses to conduct riverboat gaming operations shall expire five years from the date the license was granted.

B. Each application, including renewal applications, shall be deemed filed with the division when the application form has been received by the division, as evidenced by a signed receipt.

C. Renewal applications for licenses to conduct riverboat gaming operations shall be submitted to the division no later than 120 days prior to the expiration of the license.

D. All renewal applications for permits shall be submitted to the division no later than 60 days prior to the expiration of the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:

§2141. Renewal Applications

A. Applications for renewal of a riverboat gaming license or any permit authorized by the Act shall be made by way of forms prescribed by the division and shall contain all information requested by the division. Prescribed forms shall contain a statement made, under oath, by the applicant, each officer or director of the applicant, and each person with a 5 percent or greater economic interest in the applicant that any and all changes in the history and financial information provided in the previous application have been disclosed.

B. Renewal applications shall further contain:

1. a list of all civil lawsuits to which the applicant is a party instituted since the previous application;

2. a current list of all stockholders of the applicant, if the applicant is a corporation, or list of all partners or persons with a 5 percent or greater economic interest in the applicant;

3. a list of all administrative actions instituted or pending in any other jurisdiction against or involving the applicant or parent corporation of the applicant, if applicable;

4. prior years corporate or company tax return of the applicant;

5. a list of all charitable and political contributions made by the applicant during the last three years, indicating the recipient and amount contributed.

C. The board or division may require an applicant to provide all other such documentation or information as is necessary to determine suitability of the applicant or to discharge their duties under the act and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:

§2169. Fees for Issuance of Licenses and Permits

As prescribed pursuant to the Act, R.S. 27:91, the scheduled fees for licenses and permits shall include:

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

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

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

a. \$50,000 for each riverboat for the first year of operation and \$100,000 per year per riverboat thereafter;

b. an amount equal to 3½ percent of net gaming proceeds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:

All interested persons may contact Tom Warner, Deputy Director, Attorney General's Gaming Division, at (504) 342-2465, and may submit written comments relative to these proposed rules through November 9, 1997, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801:

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Definitions; Licenses and Permits**

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

There are no implementation costs to state or local governmental units estimated.

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

There is no effect on revenue collections of state or local governmental units.

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

No cost and/or economic benefits to directly affected persons or nongovernmental groups is estimated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
9710#049

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

**Auto Title Companies
(LAC 55:III.1501-1521)**

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles hereby gives notice of intent to adopt rules pertaining to the implementation of the law authorizing the appointment of auto title companies who are authorized to process transactions involving the transfer by sale or lease of motor vehicles.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 15. Auto Title Companies

§1501. Definitions

Assistant Secretary—assistant secretary of the Office of Motor Vehicles.

Auto Title Company—any person, firm, association, or corporation which is engaged primarily in the transfer and recordation of sales, leases, or mortgages of vehicles including, but not limited to, mobile homes, trailers, and motor vehicles. The term *auto title company* also means any person, firm, association, or corporation which has been licensed in accordance with the provisions of R.S. 32:735 et seq. An auto title company shall not mean an insurance company transferring titles to wrecked vehicles, or a licensed motor vehicle dealer, financial institution regulated by state or federal authorities, or a notary, attorney, or individual unless he or it is doing business as an auto title company.

Department—Department of Public Safety and Corrections, Office of Motor Vehicles.

Doing Business as an Auto Title Company—any act by which a person, firm, association, or corporation holds himself or itself out to the public as being engaged in the business of handling transactions involving the transfer and recordation of sales, leases, or mortgages of vehicles including, but not limited to, mobile homes, trailers, and motor vehicles.

Person—includes person, corporation, partnership, limited liability company, firm, association, or other legal entity formed to conduct business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1503. Requirement of License

A. Any person who is engaged primarily in the transfer and recordation of sales, leases, or mortgages of vehicles

including, but not limited to, mobile homes, trailers, and motor vehicles shall be licensed by the Department of Public Safety and Corrections, Office of Motor Vehicles prior to conducting any business as an auto title company.

B. A person shall not be required to obtain a license as an auto title company if the person is an insurance company transferring titles to wrecked vehicles, a licensed motor vehicle dealer, a lending institution, or a financial institution regulated by state or federal authorities. Additionally, a notary, attorney, or individual shall not be required to obtain a license as an auto title company unless the person is doing business as an auto title company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1505. Application Requirements

The application for an auto title company shall be on a form approved by the department, and shall require the applicant to provide the following information:

1. the full legal name of the applicant, including any trade names or aliases;

2. the complete physical and mailing addresses for the applicant's principal place of business, as well as for any location from which the applicant intends to conduct business as an auto title company;

3. the telephone number, including area code, for each place of business or location listed on the application;

4. if the applicant is not a natural person, the full name, complete physical and mailing addresses, and telephone number of a contact person;

5. if the applicant is not a natural person, the full name, complete physical and mailing addresses, and telephone number of all officers, directors, and managers of the applicant;

6. a signed and dated statement by each natural person listed in the application, stating that they are submitting themselves for review by the department to determine if they are persons of good moral character, and that they authorize the department to check their criminal history; and

7. such other information or documentation that the department may require in order to determine the eligibility of the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1507. Application Fee

The applicant shall pay an annual license fee of \$200 for one business location. An annual fee of \$50 will be required for each additional business location. The license fee shall be paid by cash, money order, or check, made payable to the Department of Public Safety and Corrections. If payment is made with a check, the check must be written on an account in the same name as the business name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1509. Renewal Application

Every license issued shall expire on the first day of June following the year in which such license was issued. The license shall be renewed annually at least 60 days in advance of the expiration date of the license by submitting to the Office of Motor Vehicles an application for renewal, together with the license renewal fee and the surety bond continuation certificate for the renewal period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1511. Change of Location or Information

In the event a licensed auto title company changes its business location, or any information provided on the original application or subsequent renewal application changes, the company shall submit an updated application (DPSMV 1968), an original bond change rider, and the current original auto title company license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1513. Change of Ownership

A. As part of its application for a license, an auto title company shall agree, in writing, to the updating requirements of §1513.

B. In the event there is a change in the ownership of an applicant or a licensed auto title company, the applicant or licensee, as the case may be, shall submit an updated application (DPSMV 1968), an original bond change rider, and the current original auto title company license, if issued. If the surety will not issue a bond rider, then a new bond shall be submitted with the application. If a new bond is required, the old bond shall not be canceled until the department approves the ownership change and the new bond. In the event that the old bond is canceled, the surety on the old bond shall remain liable for any claim against the old bond for any transaction handled by the licensee during the effective dates of the old bond. The bonding requirements of §1513 may be altered by the department if the department is satisfied that the state and its citizens are adequately protected from any losses resulting from the acts or omissions attributable to the licensee during the effective dates of the bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1515. Inspections and Audits

A. As part of its application for a license, an auto title company shall agree, in writing, to the audit and inspection requirements of §1515.

B. During the normal working hours of the department, or at any other time the licensee is open for business, employees or agents of the department or of the Department of Revenue shall have the right to inspect and audit any and all records or reports of the auto title company. The records and reports shall be made available immediately on request, unless the records or reports are currently in use, but no later than by the close of business following the day the request for the records

was made. In lieu of submitting the original records and reports, the auto title company may submit copies to the person requesting the records and reports, at the auto title company's cost, if the person requesting the records and reports is satisfied with the accuracy of the copies.

C. During the normal working hours of the department, or at any other time the licensee is open for business, employees or agents of the department or of the Department of Revenue shall have the right to inspect the premises of any office of the licensee where auto title business is conducted or where the records and reports of the auto title company are kept.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1517. License Suspension, Revocation, Cancellation, Nonissuance, or Restrictions

The following actions by a licensee or applicant may subject the licensee or applicant to suspension, revocation, or cancellation of the license by the department. Additionally, the department may impose license restriction as a result of any of the following actions by a licensee or applicant, or the department may deny an application and refuse to issue a license:

1. failure to remit taxes and fees collected from applicants for title transfers;
2. repeated late filings;
3. operating as an auto title company without a license for each location, with an expired license, or without a valid surety bond on file with the Office of Motor Vehicles;
4. issuance of more than one temporary registration (T-marker) to a title applicant, or issuing a T-marker without first collecting all taxes and fees;
5. operating from an unlicensed location;
6. changing the ownership of the auto title company and not reporting, in writing, to the Office of Motor Vehicles within 30 days from the date of such change;
7. changing the officers or directors of the auto title company and not reporting, in writing, to the Office of Motor Vehicles within 30 days from the date of such change;
8. being a principal or accessory to the alteration of documents relevant to a registration or titling transaction that results in material injury to the public records or a shortfall in the collection of taxes owed;
9. the forwarding to the Office of Motor Vehicles by an auto title company of a document relevant to a registration or titling transaction that results in a material injury to the public records, or a shortfall in the collection of taxes owed when the auto title company had knowledge of facts causing such injury or shortfall, and failed to disclose the same to the Office of Motor Vehicles;
10. conviction of, or an entry plea of guilty or nolo contendere to any felony; or conviction of, or an entry plea of guilty or nolo contendere to any criminal charge, an element of which is fraud;
11. fraud, deceit, or perjury in obtaining any license issued under this Chapter;
12. failure to maintain, at all times during the existence of the license, all qualifications required for issuance or renewal of a license;

13. any material misstatement of fact, or omission of fact, in any application for the issuance or renewal of a license for an auto title company;

14. the repeated submission of checks which have been dishonored by the bank on which the check was drawn.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1519. Declaratory Orders and Rulings

A. Any person desiring a ruling on the applicability of any statute, or the applicability or validity of any rule to the regulation of auto title companies shall submit a written petition to the assistant secretary. The written petition shall cite all constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed, or written legibly and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

B. The assistant secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The assistant secretary or his designee shall base the order or ruling on the documents submitted, including the petition and legal memoranda. If the assistant secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

C. Notice of the order or ruling shall be sent to the person submitting the petition, as well as the persons receiving notice of the petition, at the mailing addresses provided in connection with the petition.

D. The assistant secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in §1519.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B) and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1521. Insufficient Funds Checks

Any auto title company which has submitted three or more checks to the department which have been returned because of insufficient funds in the account within a three-month period shall be required to use a cashier's check, certified check, or money order to pay taxes and fees when submitting any transaction to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B) and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

Persons having comments or inquiries may contact Stephen A. Quidd, attorney for the Office of Motor Vehicles, by writing to Box 66614, Baton Rouge, LA 70896, by calling (504) 925-4068, or by FAX to (504) 925-3974. These comments and inquiries should be received by November 25, 1997.

A public hearing on these rules is currently scheduled for Tuesday, November 25, 1997, at 9 a.m. in the Middle Management Conference Room at the Office of Motor Vehicle Headquarters at 109 South Foster Drive, Baton Rouge, LA 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing.

Thomas H. Normile
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Auto Title Companies**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no additional cost to the department as this can be absorbed in current operations.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be an increase of revenue of approximately \$11,400 annually.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The affected groups would incur an annual fee of \$200 for one business location. They would also be required to obtain a surety bond in the sum of \$10,000.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This will place all auto title companies on equal footing, as all companies will now be required to pay licensure fees and obtain a surety bond.

Thomas H. Normile
Undersecretary
9710#102

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police
Transportation and Environmental Safety Section**

Explosive Code (LAC 55:I.1511-1541)

The Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit proposes to amend rules pertaining to magazine construction requirements, general requirements of persons holding an explosives license, training, and drug testing requirements in the Explosive Code, LAC 55:I.Chapter 5, as authorized by R.S. 40:1472.1 et seq., and in accordance with R.S. 49:950 et seq.

The proposed amendments consist primarily of technical changes to the above-mentioned sections.

**Title 55
PUBLIC SAFETY
Part I. State Police**

Chapter 15. Explosive Code

§1511. Magazine Construction Requirements

* * *

K. A Type 3 magazine is a "day box" or other portable magazine. It must be theft-resistant, fire-resistant, and weather-resistant (does not have to be bullet-resistant).

1. Minimum specifications require that a "day box" be constructed of not less than 12-gauge (.1046 inch) (2.66 mm) steel or aluminum, lined with ½ inch (12.7 mm) hardboard or plywood. The door or lid must overlap the door opening by at least 1 inch (25 mm). Hinges, hasps, and panels shall be welded, riveted, or bolted (with nuts on inside) so they cannot be removed or disassembled from the outside.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of State Police, 1974, amended and promulgated LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 23:

§1531. General Requirements

* * *

B. It is the primary licensee's responsibility to control his explosives and the use thereof. The primary licensee must control his storage and keep an accurate and continuing inventory of all supplies as set forth in §1517. The primary licensee must employ only people of good judgment, who are careful and know how to handle explosives, to do the blasting for him. The primary licensee must be sure that his employees have a valid and subsisting blaster's license. The primary licensee must be certain that the license is issued under the name of himself or his company. The primary licensee should take all practical and necessary steps to ensure that his explosives are not finding their way into the hands of unauthorized persons. Licensed geophysical contractors may contract with licensed drilling contractors to possess and use explosives for the sole purpose of executing the contract between the two parties. All explosives shall be returned to the licensed geophysical contractor at the end of each day. For purposes of §1531, the transfer of the temporary possession of explosives between the contracting parties shall not constitute a sale. The safety and security of the explosives and the compliance with these regulations shall be the responsibility of the party to the contract who is in possession of the explosives. There shall be no requirement that the drilling contractor be licensed by each geophysical contractor with whom he contracts.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of State Police, 1974, amended and promulgated LR

10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 23:

§1541. Training

* * *

B. Training records required in §1541.B.1 below must be maintained at the licensee's local office.

1. Training shall be documented on a form or certificate to include location, subject, date of instruction, and to include the instructor's signature.

2. In addition to §1541.B.1 above, the training provider shall also document training by a written examination. These training records shall be retained by the training provider.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of State Police, 1974, amended and promulgated LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 23:

§1543. Drug Testing Requirements

* * *

C. Any company whose licensee employee refuses or fails any drug test shall notify the deputy secretary of the Department of Public Safety and Corrections, Explosives Control Unit of this fact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of State Police, at the Office of State Police, 1974, amended and promulgated LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 23:

Interested persons may submit written comments to Paul Schexnayder, Attorney, Department of Public Safety and Corrections, Office of State Police, Legal Section, Box 66614, Baton Rouge, LA 70896.

Thomas Normile
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Explosive Code**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation cost (savings) to state and local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.

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

There will be no additional costs to the affected groups. These are updates of existing rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Thomas Normile
Undersecretary
9710#101

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**Electronic Benefits Transfer—Retailers and
Cash Access (LAC 67:III.403 and 405)**

The Department of Social Services, Office of Family Support proposes to amend the *Louisiana Administrative Code*, Title 67:Part III.Subpart 1, General Administrative Procedures.

The 1997 Louisiana Legislative Session provided that recipients of Family Independence Temporary Assistance Program (FITAP) cash assistance may be charged usual and customary fees for accessing cash benefits at retail establishments. This rule proposes to set forth guidelines and other provisions regarding retail establishments and fees.

The full text of this proposed rule may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments within 30 days of this publication to Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-9065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on November 25, 1997 at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Electronic Benefits
Transfer—Retailers and Cash Access**

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

There are no state costs or savings associated with this rule except the minimal cost of publishing the proposed rule and printing of policy revisions. There are no costs or savings to local governmental units associated with 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 NONGOVERNMENTAL GROUPS (Summary)

This proposed rule will affect recipients of cash assistance who may be charged usual and customary fees for accessing cash-only benefits, but no costs can be estimated as the EBT system only began implementation in July of this year. Also, agency-approved retailers must pay for the equipment required to access EBT: costs depend on the vendor they choose, and they could expect to benefit if cash is accessed and spent in their establishment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9710#111

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**Family Independence Temporary Assistance
Program (FITAP)—Individual Development
Account (LAC 67:III.1115)**

The Department of Social Services, Office of Family Support (OFS) proposes to amend the LAC 67:III.Subpart 2, the Family Independence Temporary Assistance Program (FITAP), which has replaced the Aid to Families with Dependent Children (AFDC) Program.

Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, empowered the state to establish a cash assistance program for the expenditure of federal funds for the *Temporary Assistance to Needy Families Block Grant*. The 1997 Regular Session of the Louisiana

Legislature passed legislation directing the Office of Family Support to allow FITAP recipients to maintain a special Individual Development Account. This rule now proposes to define the Individual Development Account which will be exempted as a resource.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 11. Application, Eligibility and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1115. Resource Limit

A. - B.3. ...

4. an Individual Development Account (IDA) which is a special account established in a financial institution for the purposes of work-related education or training. Only one IDA per assistance unit is allowed. The amount of the deposits cannot exceed \$6,000, excluding interest, and the balance of the account cannot exceed \$6,000, including interest, at any time. Deposits to the account may be made by the recipient, by a nonprofit organization, or by an individual contributor. OFS is not responsible for enforcing stipulations placed on the use of the money by a nonprofit organization or by an individual contributor. IDA funds may be used only for the following purposes:

- a. educational expenses incurred at an accredited institution of higher education;
- b. training costs incurred for a training program approved by the agency; or
- c. payments for work-related expenses, such as clothing, tools or equipment approved by the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:443 and R.S. 46:460.4 (Act 881 of the 1997 Regular Session).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), amended by the Department of Social Services, Office of Family Support, LR 19:1340 (October 1993), LR 24:

Interested persons may submit written comments within 30 days to Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on November 25, 1997, in the Second Floor Auditorium, 755 Third Street, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Family Independence Temporary Assistance Program (FITAP)—Individual Development Account

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The costs to state government for FITAP benefits which otherwise would be withheld are anticipated to be minimal. There are sufficient funds allocated in FY 97/98 to cover the routine implementation costs of publishing the rule and printing policy revisions. No effect is anticipated on local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
TANF recipients who establish accounts which meet the criteria will continue to be eligible for assistance despite ownership of a resource which would have otherwise rendered the family ineligible for assistance. This will encourage and allow recipients to accumulate monies to be used for future educational and training-related expenses without loss of eligibility. These recipients may thus be enabled to enroll in education and training activities which otherwise would not have been available to them.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9710#110

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**Food Stamps—Deductions and Case
Actions (LAC 67:III.1701 and Chapter 19)**

The Department of Social Services, Office of Family Support proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 3, Food Stamps.

Under authority granted by the United States Department of Agriculture (USDA), Food and Consumer Service, the Food Stamp Program proposes to establish a mandatory standard utility allowance and basic utility allowance in the eligibility determination process. The option to establish mandatory standards was offered to state agencies under Section 809 of Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

The agency proposes also to revise the sequence of certain actions in the process of reducing or terminating a recipient's benefits. USDA has approved a waiver which allows the

agency to send a notice of adverse action, in lieu of a notice of expiration, when the agency becomes aware of a change in a household's circumstances but does not have all the information needed to process the change.

Program authority in §1701 will be amended to include appropriate state legislation.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 17. Administration

Subchapter A. General Provisions

§1701. Authority

The Food Stamp Program is administered under the authority of applicable federal and state laws.

AUTHORITY NOTE: Promulgated in accordance with applicable sections of 7 CFR and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991), amended LR 24:

Chapter 19. Certification of Eligible Households

Subchapter I. Income and Deductions

§1965. Standard Utility Allowance (SUA)

A. Households which incur heating or cooling costs separate and apart from their rent or mortgage use a mandatory single Standard Utility Allowance (SUA) in the determination of shelter costs and deductions. To be qualified, the household must be billed on a regular basis for heating or cooling costs. However, during the heating season a household that is billed less often than monthly, but is eligible to use the standard allowance, may continue to use the standard allowance between billing months. The SUA is available to those households receiving energy assistance payments or reimbursements but who continue to incur heating or cooling costs that exceed the payment during any month covered by the certification period.

B. Any household living in a housing unit which has central utility meters and which charges the household for excess utility costs only, shall not be permitted to use the SUA.

C. Where the household shares a residence and utility costs with other individuals, the SUA shall be divided equally among the parties which contribute to meeting the utility costs. In such cases, the household shall only be permitted to use its prorated share of the standard allowance.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:51551 et seq., 7 CFR 272 and 273.9, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:64 (February 1983), amended by the Department of Social Services, Office of Family Support, LR 20:860 (August 1994), LR 20:991 (September 1994), LR 20:1363 (December 1994), LR 21:188 (February 1995), LR 23:82 (January 1997), LR 24:

§1966. Basic Utility Allowance (BUA)

Households which do not incur heating or cooling costs separate and apart from their rent or mortgage use a mandatory single Basic Utility Allowance (BUA). To be eligible, a household must be billed on a regular basis for

utility costs. Any household living in a housing unit which has central utility meters and which charges the household for excess utility costs only shall use the BUA. When the household shares a residence and utility costs with other individuals, the BUA shall be divided equally among the parties which contribute to meeting the utility costs. In such cases, the household should only be permitted to use its prorated share of the BUA.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:

§1967. Setting the Standard Utility Allowance and Basic Utility Allowance

[Editor's Note: section heading changed.]

* * *

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9(d)(6), P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:864 (September 1985), repromulgated by the Department of Social Services, Office of Family Support, LR 24:

Subchapter M. Notice of Adverse Action (NOAA)

§1999. Reduction or Termination of Benefits

* * *

B. A Notice of Adverse Action (NOAA) will be sent instead of a Notice of Expiration of the certification period when the agency becomes aware of a change in the household's circumstances and the household has not furnished verification of the change, requested more time to obtain the information, or requested the agency's assistance in obtaining the required verification. The NOAA will advise the household of the specific information which must be provided by the last day of the month following the month the notice is sent so that the agency can determine the effect of the change in the household's eligibility and benefit level. If the household provides the information before the adverse action period expires and continues to be eligible, its participation will continue without reapplication. If the verification is not provided in this period of time, benefits will be terminated and the household will be required to reapply. The time frames involved will be the same as if the certification period is shortened.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55903 et seq., 7 CFR 273.13, 7 CFR 273.12(f)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:324 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 24:

Interested persons may submit written comments within 30 days to Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-9065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on November 25, 1997 at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in

writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Deductions and Case Actions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs or savings to state or local governmental units associated with this proposed rule. Food stamp benefits are 100 percent federally funded. The administrative cost of publishing the rule and printing the policy revisions is negligible.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed action regarding the Mandatory Standard Utility Allowance (SUA) and the Basic Utility Allowance (BUA) has the potential to affect a small number of current and future food stamp households which receive an excess shelter deduction. The action regarding the Notice of Adverse Action (NOAA) has no impact since there is no change in the time frames. There are no costs or benefits to nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9710#109

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of the Secretary**

**Sunshine Bridge Toll—Student
Exemptions (LAC 70:I.517)**

The Department of Transportation and Development, Office of the Secretary, Crescent City Connection Division, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby proposes to adopt rules applicable to free passage for students on the Sunshine Bridge.

The department has adopted these rules through a declaration of emergency published in the September 20, 1997 issue of the *Louisiana Register*.

The emergency rules are effective September 20, 1997 and shall remain in effect for the 120-day maximum period allowed or until adoption of the final rule, whichever occurs first.

The text of these proposed rules may be viewed in its entirety in the emergency rule section of the September 1997 issue of the *Louisiana Register*, pages 1106-1107.

Frank M. Denton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sunshine Bridge Toll-Student Exemptions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be minimal implementation costs to the state. The issuance of coupons to eligible students and school transportation systems will cost approximately \$6,500 annually.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no adverse effect on revenue collections of state or local governments. Students and school buses pass over the bridge free of charge at the present time. This rule only implements a new identification system and expanded hours of access.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no cost or benefit to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment.

Kenneth E. Pickering
General Counsel
Crescent City Connection Division
9710#052

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of the Secretary**

**Greater New Orleans Mississippi River Bridge
Number 2 Transit Lanes (LAC 70:I.515)**

The Department of Transportation and Development, Office of the Secretary, Crescent City Connection Division, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby proposes to adopt rules applicable to the transit lanes on the Crescent City Connection Bridge Number 2.

The department adopted these rules through a declaration of emergency published in the September 20, 1997 issue of the *Louisiana Register*; however the emergency rules were withdrawn on September 29, 1997 (after *Louisiana Register* publication).

The text of these proposed rules is identical to the September 20 emergency rule text and may be viewed in its entirety in the emergency rule section of the September 1997 issue of the *Louisiana Register*, pages 1105-1106.

Frank M. Denton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Greater New Orleans Mississippi
River Bridge Number 2 Transit Lanes**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be minimal implementation costs to the state. The issuance of permits to eligible HOV vehicles will cost approximately \$6,500 annually.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There may be an adverse effect on revenue collections by the Crescent City Connection Division of approximately \$150,000 annually.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
HOV-2 users of the Crescent City Connection transit lanes will benefit by approximately \$30 per annum.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment.

Kenneth E. Pickering
General Counsel
Crescent City Connection Division
9710#042

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Definition of Terminate (LAC 58:I.101)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System (LASERS) advertises its intent to amend LAC 58:I.101. The proposed rules clarify the current definition, which is too ambiguous, and could be interpreted to prevent rehired LASERS retirees from accessing funds from the Deferred Retirement Option Plan (DROP).

These proposed rules comply with statutory law administered by LASERS and are enabled by R.S. 11:515.

The text of this proposed rule may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may also submit written opinions, suggestions, or data to Steve Stark, State Employees' Retirement System, 8401 United Plaza Boulevard, First Floor, Baton Rouge, LA 70809, through December 5, 1997. No preamble regarding these proposed rules is available.

James O. Wood
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Definition of Terminate

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant costs or savings to state or local governmental units are anticipated to result from the proposed rule. The proposed rule clarifies the definition of *termination of state service*. The Louisiana State Employees' Retirement System may achieve some savings as a result of a reduction in administrative workload.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections of state or local governmental units is anticipated to result from implementation of the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No costs or economic benefits to directly affected persons are anticipated to result from the proposed rule implementation.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule changes will not affect competition and employment.

James O. Wood
Executive Director
9710#063

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Office of Management and Finance**

Nonresident Hunting and Fishing Licenses (LAC 76:I.327)

The Department of Wildlife and Fisheries, Office of Management and Finance hereby gives notice of intent to adopt a rule relative to the sale of nonresident hunting and fishing licenses.

Title 76

WILDLIFE AND FISHERIES

**Part I. Wildlife and Fisheries Commission
and Agencies Thereunder**

Chapter 3. Special Powers and Duties

**Subchapter H. Nonresident Hunting and Recreational
Fishing Licenses**

**§327. Nonresident Hunting and Recreational Fishing
Licenses**

Nonresident hunting and recreational fishing licenses may be purchased by telephone using a Visa or MasterCard credit card. A dedicated "800" telephone number will be established for this purpose. Each applicant shall provide the department with the following information:

1. name;
2. complete address;

3. driver's license number and the state of issue;
4. date of birth;
5. telephone number;
6. Social Security Number;
7. hunter education number (if born after September 1, 1969);
8. beginning date of trip (when purchasing a trip license);
9. harvest information, as required; and
10. name printed on credit card, credit card number, and expiration date.

Licenses will be mailed within the next working day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:642.A.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Office of Management and Finance, LR 24:

Interested persons may submit written comments on the proposed rule to Janis Landry, Office of Management and Finance, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, December 4, 1997.

James H. Jenkins, Jr.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Nonresident Hunting and Fishing Licenses

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

A one-time implementation cost of \$675 for software and installation of a telephone line will be incurred and absorbed within the current budget year. An increase in administrative overhead costs is anticipated, depending on the number of nonresident licenses and stamps issued, but cannot be determined at this time.

Savings may also be incurred since the commissions on nonresident licenses and stamps sold by the department will not be paid to vendors and local sheriffs, provided nonresidents choose to purchase their recreational licenses by phone with a credit card. Vendors normally receive \$.50 per license sold and sheriffs receive 15 percent of the license price less vendors' commission on all licenses sold in their parish.

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

The amount of increase or decrease in revenue collections of state and local governmental units will be dependent on the number of nonresident recreational licenses sold by the new telephone credit card program and cannot be determined at this time.

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

Nonresident recreational hunters and fishermen will benefit from the proposed rule by being able to purchase their licenses and stamps by telephone with a credit card.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule may create a slight increase in competition between the two public agencies (Louisiana Wildlife and

Fisheries and local sheriffs' departments) and private vendors since all three groups may sell nonresident recreational hunting and fishing licenses and stamps. Employment, on the other hand, will probably not be affected due to the low volume of nonresident license sales.

Ronald G. Couvillion, Sr.
Undersecretary
9710#062

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Mullet Harvest—Proof of Income (LAC 76:VII.343)

The Wildlife and Fisheries Commission hereby announces its intent to amend the rule relative to proof of income for the harvest of mullet.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule including, but not limited to, filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule, and the preparation of reports and correspondence to other agencies of government.

The text of this proposed rule may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed rule to David Lavergne, Socioeconomic Section, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, December 4, 1997.

Daniel J. Babin
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Mullet Harvest—Proof of Income

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

No costs or savings to state or local governmental units are anticipated to implement the proposed rule.

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

No increase or decrease in state or local revenue collections are anticipated as a result of the proposed rule. State revenues collected from sales of mullet permits may decrease if the proposed rule is not adopted.

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

The proposed rule would provide those applicants, who were unable to obtain a certified copy of their federal income tax returns from the Internal Revenue Service (IRS) for any two of the years 1993, 1994 and 1995, acceptable alternative documentation methods to prove income eligibility for obtaining a mullet permit.

Nearly all the commercial fishermen applying for a mullet permit have provided the department with IRS-certified copies of their tax returns or copies of their transcripts and income tax returns. Thus, only new applicants wanting to obtain a mullet permit will have to provide income eligibility documentation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule would have very little impact on competition and employment. However, if the proposed rule is not adopted a negative impact on employment and an increase in competition in other fisheries may occur as mullet fishermen target other marine species to replace lost income from the mullet fishery.

Ronald G. Couvillion, Sr.
Undersecretary
9710#061

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

**Saltwater Commercial Rod and Reel
License—Proof of Income (LAC 76:VII.405)**

The Wildlife and Fisheries Commission hereby announces its intent to amend the rule relative to proof of income for the saltwater commercial rod and reel license.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

The text of this proposed rule can be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed rule to David Lavergne, Socioeconomic Section, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, December 4, 1997.

Daniel J. Babin
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Saltwater Commercial Rod and Reel
License—Proof of Income**

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

No costs or savings to state or local governmental units are anticipated to implement the proposed rule.

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

No increase or decrease in state or local revenue collections are anticipated as a result of the proposed rule. State revenues collected from sales of rod and reel licenses may decrease if the proposed rule is not adopted.

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

The proposed rule would provide those applicants, who were unable to obtain a certified copy of their federal income tax returns from the Internal Revenue Service (IRS) for any two of the years 1993, 1994, and 1995, acceptable alternative documentation methods to prove income eligibility for obtaining a rod and reel license.

Nearly all the commercial fishermen applying for a rod and reel license have provided the department with IRS-certified copies of their income tax returns or copies of their transcripts and income tax returns. Thus, only new applicants wanting to obtain a rod and reel license will have to provide income eligibility documentation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule would have very little impact on competition and employment. However, if the proposed rule is not adopted, a negative impact on employment and an increased competition in other fisheries may occur as commercial fisherman, who are denied a rod and reel license, enter into other fisheries to replace lost income from the rod and reel fishery.

Ronald G. Couvillion, Sr.
Undersecretary
9710#060

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

**Spotted Seatrout Management Measures—Proof of
Income (LAC 76:VII.341)**

The Wildlife and Fisheries Commission hereby announces its intent to amend the rule for proof of income for spotted seatrout.

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed rule to David Lavergne, Socioeconomic Section, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, December 4, 1997.

Daniel J. Babin
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Spotted Seatrout Management
Measures—Proof of Income**

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

No costs or savings to state or local government units are anticipated to implement the proposed rule.

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

No increase or decrease in state or local revenue collections are anticipated as a result of the proposed rule. State revenues collected from sales of spotted seatrout permits may decrease if the proposed rule is not adopted.

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

The proposed rule would provide those applicants, who were unable to obtain a certified copy of their federal income tax returns from the Internal Revenue Service (IRS) for any two of

the years 1993, 1994 and 1995, acceptable alternative documentation methods to prove income eligibility for obtaining a spotted seatrout permit.

Nearly all the commercial fishermen applying for a spotted seatrout permit have provided the department with IRS-certified copies of their tax returns or copies of their transcripts and income tax returns. Thus, only new applicants wanting to obtain a spotted seatrout permit will have to provide income eligibility documentation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule would have very little impact on competition and employment. However, if the proposed rule is not adopted a negative impact on employment and an increase in competition in other fisheries may occur as commercial spotted seatrout fishermen target other marine species to replace lost income from the spotted seatrout fishery.

Ronald G. Couvillion, Sr.
Undersecretary
9710#059

Richard W. England
Assistant to the
Legislative Fiscal Officer

Committee Reports

COMMITTEE REPORT

Senate and Governmental Affairs Committee September 12, 1997

Board of Ethics—Organization; Powers; Hearings; Penalties; Reports; Records; and Registration (LAC 52:I.Chapters 1-16)

(Editor's Note: The text of the proposed rule can be viewed on pages 458 through 471 of the April 1997 *Louisiana Register*. The final rule is published on pages 1288 through 1302 of this issue of the *Louisiana Register*.)

Pursuant to the provisions of R.S. 49:968, the Senate Committee on Senate and Governmental Affairs met jointly with the House Committee on House and Governmental Affairs on Tuesday, September 9, 1997 to review administrative rules proposed by the newly appointed Board of Ethics. After lengthy discussion, the committee:

1. voted, without objection, to sever Chapter 17 (Lobbyist Disclosure Act) and Chapter 18 (Gaming) from the proposed rules citing the unconstitutionality of the proposed rules. These rules were determined to be overbroad and not within the ambit or intent of the enabling statutes;

2. made a motion to accept the rules as severed. The motion failed upon the vote of the Senate and Governmental Affairs Committee. No vote was taken by the House and Governmental Affairs Committee, there being no quorum present. Some members of the joint committee expressed concern that:

A. *trial attorney* as defined by the rules of the board does not clearly delineate or separate the responsibilities of the prosecuting attorney and the attorney representing the board pursuant to *In re Georgia Gulf Corporation and Robert Harrison and Kenneth E. Samanha and Sales Tax, Inc.*

Editor's note:

PROPOSED AS	ADOPTED (FINAL) AS:
§501-503 LR 23:461(April 1997)	§101.P LR 23:1288 (October 1997); and §501-503 LR 23:1290 (October 1997).]

B. the board, under the rules, has the ability to launch an investigation or conduct "fact-finding" based upon anonymous information;

Editor's note:

PROPOSED AS	ADOPTED (FINAL) AS:
§101.H LR 23:459 (April 1997)	§101.H LR 23:1288 (October 1997)
§202.A.4 LR 23:459 (April 1997)	§202.A.4 LR 23:1289 (October 1997)
§705 LR 23:462 (April 1997)	§705 LR 23:1292 (October 1997)

C. the rules do not address the ability of a panel to defer or dismiss an action based upon a tie vote of the board or panel;

Editor's note:

PROPOSED AS	ADOPTED (FINAL) AS:
§205.E.1 - 2 LR 23:460 (April 1997)	deleted from final rule

D. the board's ability, under the rules, to issue news releases to the media with respect to all activities of the board is not clearly within the scope of the enabling statute;

Editor's note:

PROPOSED AS	ADOPTED (FINAL) AS:
§202.A.7 LR 23:459 (April 1997)	deleted from final rule

E. the composition of panels, which may be three or more, may produce an inconsistency in the vote required on a particular action. A three-member panel requires a unanimous vote, a five-member panel requires a majority vote;

Editor's note:

PROPOSED AS	ADOPTED (FINAL) AS:
§203.B. and F. LR 23:459 and 460 (April 1997)	§203.B. and F. LR 23: 1289 (October 1997)

**GOVERNOR'S RESPONSE
TO COMMITTEE REPORT**

September 22, 1997

F. the prohibition on ex parte communications by the trial attorney with the board should also be extended to prohibit ex parte communications with the board's attorney;

Editor's note:

PROPOSED AS	ADOPTED (FINAL) AS:
§503 LR 23:461 (April 1997)	§503 LR 23:1291 (October 1997)

G. the burden of proof required by the rules to provide a violation is a preponderance of the evidence. The statute is silent on the standard for the burden of proof;

Editor's note:

PROPOSED AS	ADOPTED (FINAL) AS:
§1012 LR 23:464 (April 1997)	§1011 LR 23: 1295 (October 1997)

H. the length of time the board has to take action on a complaint (two years) is too long;

Editor's note:

PROPOSED AS	ADOPTED (FINAL) AS:
§708 LR 23:462 (April 1997)	§708 LR 23:1292 (October 1997)

I. all interlocutory rulings or orders of the board must be objected to contemporaneously;

Editor's note:

PROPOSED AS	ADOPTED (FINAL) AS:
§1017 LR 23:465 (April 1997)	§1016 LR 23:1296 (October 1997)

For the above reasons, the Senate Committee on Senate and Governmental Affairs failed to approve the administrative rules for the Board of Ethics and Supervisory Committee of the Louisiana Campaign Finance Disclosure Act, Chapters 1 through 16, and severed Chapters 17 and 18.

Jay Dardenne
Chairman

9710#028

**Board of Ethics—Organization; Powers; Hearings;
Penalties; Reports; Records; and Registration
(LAC 52:I.Chapters 1-16)**

(Editor's Note: The text of the proposed rule can be viewed on pages 458 through 471 of the April 1997 *Louisiana Register*. The final rule is published on pages 1288 through 1302 of this issue of the *Louisiana Register*.)

Dear Senator Dardenne:

In your letter of September 12, you advised me that the Senate Committee on Senate and Governmental Affairs met jointly with the House Committee on House and Governmental Affairs on Tuesday, September 9, 1997, to review administrative rules proposed by the new Board of Ethics. Your letter recites the concerns of the committee members and advised of the failure of the Senate committee to "approve the administrative rules for the Board of Ethics and Supervisory Committee of the Louisiana Campaign Finance Disclosure Act, Chapters 1 through 16, and [the severance of] Chapters 17 and 18."

Following receipt of your letter, we conducted a review of all issues raised by the members of the joint committee during the September 9 meeting. The result is that the Board of Ethics has withdrawn Chapters 17 and 18 dealing with lobbyist disclosure and gaming because of significant constitutional concerns.

Regarding the other proposed chapters which more directly address the ethics laws, the board, as reflected by the enclosed correspondence, has agreed with the validity of many of the committee's concerns and has committed to immediately incorporate appropriate changes in the proposed ethics rules. These changes, which clarify and strengthen the rules, are supported by a consensus of the members of the joint oversight committee. Considering the above, to the extent the actions of the legislative oversight committee on September 9 had the effect of a finding of unacceptable as to these rules, I am hereby disapproving those actions pursuant to R.S. 49:968.

The effect of my action is to allow the Board of Ethics to make final its rules, thereby implementing the provisions of Act 64 of the 1996 Extraordinary Session of the Legislature, approved by me May 9, 1996, without delay.

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

9710#027

Administrative Code Update

CUMULATIVE ADMINISTRATIVE CODE UPDATE January - September, 1997

LAC Title	Part.Section	Effect	Location LR 23	Month	Page
4	VII.1301-1323	Amended		Sep	1146
7	I.107	Adopted		Jun	703
	V.Chapter 15	Amended		Mar	293
	XV.9903,9914,9919,9921	Amended		Feb	195
	XXI.101,107	Amended		Aug	949
	XXI.511-535	Adopted		Aug	943
	XXI.11715, 11717	Amended		Feb	196
	XXIII.Chapter 131	Amended		Feb	192
	XXIII.13113	Amended		Jul	853
	XXV.14101,14107,14113	Amended		Jul	855
	XXV.14112	Adopted		Jul	855
	XXV.14116	Amended		Jul	855
	XXV.14121	Amended		Jul	854
	XXVII.14728	Amended		Feb	196
	XXIX.15107	Amended		Jul	854
	XXXV.Chapter 175	Amended		Jul	857
	XXXIX.101	Amended		Aug	943
	XXXIX.20501,20701	Amended		May	553
10	I.201	Amended		Mar	297
	I.201-203	Amended		Jun	706
	I.205	Repromulgated		Jun	707
	I.701	Adopted		Jun	705
	III.111	Repealed		Jun	705
	III.591	Adopted		Jan	47
	XV.301-321	Amended		Sep	1128
13	I.Chapter 9	Amended		Mar	295
16	II.105	Amended		Jun	749
19	II.Chapters 1-13	Adopted		Jan	49
	VII.Chapter 1	Amended		Jan	40
	VII.117,119,121	Repealed		Jan	43
	VII.2301-2313	Amended		May	558
	VII.Subpart 1 (Ch. 3-13)	Repealed		Jan	40 *
	VII.Subpart 3 (Ch.7,9,11)	Repealed		Jan	40 *
	VII.Chapter 75	Adopted		May	555
	VII.Chapter 81	Adopted		Jan	43
	VII.Chapter 91	Adopted		Jan	36
	X.103,105,109,111,113	Amended		May	554
22	XIII.103	Amended		Jul	861
25	XI.101	Adopted		Jan	35
28	I.903	Amended		Sep	1137
	I.911	Amended		May	563
	I.912	Amended		Aug	951
	I.1709	Amended		Jan	55
	I.1713	Amended		Apr	404
	VI.Chapters 1 and 3	Adopted		Jun	711

33	I.Chapter 9	Adopted	Mar	297
	I.Chapter 11	Adopted	Sep	1141
	III.504	Amended	Feb	197
	III.517	Amended	Apr	405
	III.1311	Amended	Jun	720
	III.1405	Amended	Jun	720
	III.2122	Repromulgated	Feb	197
	III.Chapter 51	Amended	Jan	56
	III.5116, 5122	Adopted	Jan	61
	III.5301	Amended	Jan	63
	III.5311	Adopted	Jan	63
	V.105	Amended	Mar	298
	V.105	Amended	Jun	721
	V.105	Amended	Aug	952
	V.Chapters 1,15,22,41	Amended	May	564
	V.Chapters 1,3,15,22	Amended	May	567
	V.2271	Amended	Mar	299
	V.2515	Amended	Mar	299
	V.Chapters 35,39,41	Amended	May	567
	V.Chapter 38	Adopted	May	567
	V.Chapter 49,Appendix E	Adopted	Aug	952
	VII.115,315	Amended	Sep	1145
	VII.315,727	Amended	Aug	954
	VII.10536	Amended	Jun	722
	IX.708	Amended	Jul	860
	IX.2301	Amended	Feb	199
	IX.2341,2443	Amended	Aug	957
	IX.2560	Adopted	Feb	199
	IX.Chapter 23	Amended	Jun	722
	IX.2531,2533,2709	Amended	Aug	958
	XV.112	Amended	Mar	299
	XV.325,1302,1307	Amended	Sep	1140
	XV.Chapters 5,6	Amended	Sep	1138
34	I.3103	Amended	Jan	67
	XI.103	Amended	Mar	300
35	I.1507	Amended	Aug	950
	I.1706	Adopted	Jun	708
	I.1733	Amended	Aug	951
	V.8305	Amended	Jun	707
	XIII.10365	Amended	Jun	709
	XIII.10367	Amended	Jun	709
	XIII.10379	Adopted	Jun	708
37	III.Chapters 1,5,7,9	Amended	Jan	67
40	I.1723	Amended	Jul	868
	I.2123	Amended	Jan	77
	IV.113	Adopted	Jan	76
42	XI.2423	Repealed	Jan	77
	XIII.2167	Repealed	Jan	77
	XIII..2523	Amended	Jun	746
	XIII.2524	Adopted	Jun	746
	XIII.3501	Amended	Jun	747
	XIII.3503-3513	Repealed	Jun	747
	XV.Chapter 1	Repromulgated	Jan	63
	XV.141	Amended	Jan	67

43	XIX.1301-1305	Amended	May 583	58	I.301,303,305	Amended	Aug 996	
	XIX.1501-1505	Amended	May 585		I.501,503,507	Amended	Aug 997	
	XIX.2301-2305	Amended	May 580		III.	Amended	Jan 85	
	XIX.3501-3511	Amended	May 581					
46	I.1101, 1105	Amended	Apr 402	61	I.2903	Amended	Sep 1167	
	XIX.Chapters 1-29	Amended	Sep 1112		I.4905	Amended	Sep 1167	
	XIX.2703	Repealed	Sep 1126		I.4910	Amended	Apr 448	
	XIX.Chapter 31	Adopted	Sep 1126		I.5301	Amended	Jan 78	
	XXXIII.301	Repromulgated	Feb 199	V.Chapters 7-35	Amended	Feb 204		
	XXXIII.303	Repealed	Feb 200	67	I.101	Amended	May 591	
	XLI.701,703	Amended	Aug 950		III.101, 103	Amended	Jan 79	
	XLI.901	Amended	Sep 1136		III.401	Amended	Jul 869	
	XLV.3701-3767	Adopted	Apr 405		III.902	Adopted	Apr 448	
	XLV.6903,6907	Amended	Sep 1146		III.1113, 1133	Amended	Jan 79	
	XLV.6915-6923	Adopted	Jun 727		III.1113	Amended	Apr 449	
	XLVII.Chapters 33,35	Amended	Aug 960		III.1116,1118	Adopted	Apr 449	
	XLVII.3354	Adopted	Aug 960		III.1141, 1143	Amended	Apr 448	
	XLVII.3303,3347,3355	Amended	Aug 962		III.1301, 1501	Amended	Apr 449	
	LIX.Chapters 1-4,8	Amended	May 587		III.1506	Adopted	Apr 449	
	LXI.1701	Amended	Jul 869		III.Chapter 19	Amended	Jan 79	
	LXIII.201	Adopted	Jul 861		III.1909	Repealed	Jan 79	
	LXVI.Chapters 9,12,13	Amended	Jan 71		III.1938,1940	Adopted	Jan 80	
	LXVI.1221	Repealed	Jan 74		III.1943	Repealed	Jan 82	
	LXXXV.101-106	Amended	Aug 966		III.1988, 1994	Adopted	Jan 83	
	LXXXV.302	Repealed	Aug 964		III.1988	Amended	May 590	
	LXXXV.301,303,305,307	Amended	Aug 964		III.2304	Adopted	Jun 747	
	LXXXV.403,405	Amended	Sep 1147		III.2509,2512,2540	Amended	Jun 748	
	LXXXV.501,503	Amended	Aug 963		III.2514	Adopted	Mar 304	
	LXXXV.701,707,709,711	Amended	Aug 969		III.2541	Amended	Feb 210	
	LXXXV.712	Adopted	Aug 970		III.2542,2575,2576	Adopted	Jun 748	
	LXXXV.1063	Amended	Aug 968		III.2543	Repealed	Jun 748	
LXXXV.1103,1119,1112	Amended	Aug 968	III.2754		Adopted	Jun 748		
LXXXV.1201	Amended	Aug 963	III.2755		Adopted	Jun 749		
48	I.103,107,109	Repealed	Jul 866		III.2753	Repealed	Feb 210	
	I.Chapter 23	Amended	Jan 74		III.2902	Adopted	Apr 450	
	I.4539	Amended	Apr 413		III.2903-2913	Amended	Apr 450	
	I.16103-16123	Amended	Jul 862	III.4702	Repromulgated	May 591		
	I.16125-16129	Adopted	Jul 862	V.1103	Amended	May 590		
	V.6303	Amended	Mar 301	VII.101	Amended	Aug 995		
	V.6303	Repromulgated	May 579	70	I.509	Amended	Jan 85	
	VII.Chapter 9	Adopted	Feb 200		I.513	Adopted	Jan 84	
	IX.915,917	Amended	Sep 1147		III.1103	Adopted	Feb 210	
	50	II.Chapter 101	Amended		Aug 970	76	III.329	Adopted
II.Chapter 109		Repromulgated	Sep 1149		V.317		Adopted	Sep 1168
II.10927		Amended	Sep 1155		VII.110		Amended	Aug 999
II.10941		Amended	Sep 1156		VII.149		Amended	Sep 1168
52	I.Chapter 17	Amended	Jun 704		VII.165	Amended	Aug 998	
					VII.329	Amended	Jan 86	
55	III.551-565	Adopted	Aug 990		VII.349	Repromulgated	Feb 211	
	IX.183	Adopted	Aug 990	XIX.101,103	Amended	Jul 871		
				XIX.107	Adopted	May 593		

* See text in July issue, page 858.

Potpourri

POTPOURRI

Department of Environmental Quality Office of Air Quality and Radiation Protection

Authorization of the Lead Program

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Louisiana Department of Environmental Quality (LDEQ), Office of Air Quality and Radiation Protection, Air Quality Compliance Division intends to seek authorization of its lead program from the United States Environmental Protection Agency (EPA). Program development has been effected under the authority of R.S. 2351-2351.59, Lead Hazard Reduction, Licensure, and Certification. Authorization of the LDEQ lead program will be sought under the provisions of TSCA §404, Authorized State Programs, Title X, the Residential Lead-Based Paint Hazard Reduction Act of 1992.

Under EPA's lead program authorization guidance, LDEQ must publish this notice and must also provide the opportunity for a public hearing on program authorization, should one be requested.

Comments on this intent to seek authorization should be directed to Jerome Freedman, Coordinator, at the Department of Environmental Quality, Air Quality Division, Box 82135, Baton Rouge, LA 70884-2135, or electronically to jerryf@deq.state.la.us, and should be received before 4:30 p.m. on November 21, 1997.

Gus Von Bodungen, P.E.
Assistant Secretary

9710#091

POTPOURRI

Department of Environmental Quality Office of Legal Affairs and Enforcement

Semiannual Regulatory Agenda

The Department of Environmental Quality (DEQ) announces the availability of the fall 1997 edition of the *Semiannual Regulatory Agenda* prepared by the Investigations and Regulation Development Division. The current agenda contains information on rules which have been proposed but have not been published as final and rules which are scheduled to be proposed in 1997 and 1998. Check or money order in the amount of \$2.55 is required, in advance, for each copy of the agenda. Interested persons may obtain a copy by contacting Lula Alexander, Department of Environmental Quality, Office of Legal Affairs and Enforcement,

Investigations and Regulation Development Division,
Box 82282, Baton Rouge, LA 70884-2282 or by calling
(504) 765-0399.

The agenda is also available on DEQ's regulations on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Tim B. Knight
Administrator

9710#090

POTPOURRI

Department of Environmental Quality Office of Water Resources

Cost/Benefit Analysis for the Water Pollution Control Fee System (WP026)

The Department of Environmental Quality is proposing an amendment to the Water Pollution Control System Fee Regulations (WP026) which will increase the annual fees charged by the department to water discharge permittees. The amendment will increase annual fees by 7.5 percent effective July 1, 1998 and by another 7.5 percent on July 1, 1999. The fee was specifically authorized by Act 1245 of the 1997 Louisiana Legislature.

The fee increase will provide funding for the Office of Water Resources to fully implement state and federal mandates regarding developing Total Maximum Daily Loads (TMDLs). The rule will affect approximately 400 municipal facilities and 2,200 other facilities that are currently included in the fee system. By adequately funding the Louisiana TMDL program, the fee increase will allow assessment, development, and implementation directly by the state of Louisiana instead of the federal government. It is believed that this will allow the program to more accurately reflect Louisiana's priorities and unique environment.

This statement is prepared to satisfy the requirements of R.S. 30:2019(D) and R.S. 49:953(G) (Acts 600 and 642 of the 1995 Louisiana Legislature, respectively). However, this document is not a quantitative analysis of cost, risk, or economic benefit, although costs of implementation were identified to the extent practical. The statutes allow a qualitative analysis of economic and environmental benefit where a more quantitative analysis is not practical. The department asserts that the benefits of a rule designed to support a federally mandated improvement in water quality justify the costs associated with the fee increase.

Therefore, the qualitative approach is taken with this risk/cost/benefit statement. As discussed further in this document, this amendment to the Water Pollution Control Fee System provides environmental and economic benefits.

Assessing dollar benefits of avoided environmental risk or economic benefits of this rule is not practicable. In addition, the department asserts that the indirect and direct environmental and economic benefits to be derived from this rule will, in the judgment of reasonable persons, outweigh the costs associated with the implementation of the rule and that the rule is the most cost-effective alternative to achieve these benefits.

Risks Addressed by the Rule

The fee rule addresses the risks associated with the pollution of water bodies in the state which result from uncontrolled or improperly allocated discharges to these water bodies from point and nonpoint sources. It does this by providing adequate funds for the Office of Water Resources to determine Total Maximum Daily Loads (TMDLs) in a timely manner on surface water bodies listed by the state in 1996 as not fully supporting their designated uses under Section 303(d) of the Federal Water Pollution Control Act (Clean Water Act). In Louisiana, seven water uses are designated for surface water bodies:

1. primary contact recreation;
2. secondary contact recreation;
3. fish and wildlife propagation;
4. drinking water supply;
5. oyster propagation;
6. agriculture; and
7. outstanding natural resource waters.

Currently, approximately one-third of the assessed water bodies in Louisiana are listed as not fully supporting their designated uses.

Numerous risks are associated with impaired water bodies. Human health risk may result due to exposure to pollutants in water bodies through drinking, bathing, swimming or other direct contact with pollutants such as pathogens or toxic chemical agents. There may be direct risk to aquatic life, both plant and animal. This can result from exposure to toxic chemical agents, chlorides, low dissolved-oxygen concentrations due to pollutant loadings, and other factors. Damage to aquatic life, as well as loss of aesthetic quality of surface water bodies, also leads to other indirect risks, such as risk of economic losses due to impairment of commercial and recreational fishing, hunting, swimming, camping, and ecotourism. It should also be noted that surface water bodies are a major source of drinking water in Louisiana, and their protection is essential for providing safe drinking water for its citizens.

Environmental and Health Benefits of the Rule

By providing adequate funding for performance of TMDLs by the Office of Water Resources, the fee rule revision will provide numerous environmental and public health benefits which have great economic value to the state. With this funding, the Office of Water Resources will be able to determine total maximum daily loads for listed surface water bodies in the state. Water bodies are listed on the 303(d) list because they are not currently supporting their designated uses due to pollutants or impacts of pollutants (such as low dissolved oxygen).

The TMDL for a substance is the sum of the individual waste load allocations for the point sources discharging to a

water body, the load allocations for nonpoint sources and the natural background, and a margin of safety. TMDLs are based on water quality standards and, when calculated for a water body, determine the maximum pollutant load (including a safety factor) the water body can receive and fully support its designated uses and applicable water quality standards. By determining TMDLs for Louisiana water bodies, the Office of Water Resources will be able to provide accurate and equitable waste load allocations for point discharges which will be protective of stream quality, human health, and the environment.

The Office of Water Resources anticipates the fee increase will ultimately fund 36 new positions to assist in the development of TMDLs. These positions will be filled as revenue collections permit. The office will perform TMDLs on listed streams over a period of 12 years. These additional personnel will be utilized to collect instream data, develop and execute water quality models, develop and implement TMDLs, and provide the required written documentation and rule changes necessary to appropriately document the process.

According to the 1996 Water Quality Inventory, 66 percent of the assessed water bodies in the state do fully support their designated uses and another 22 percent of assessed water bodies partially support their designated uses. However, a significant number of streams, lakes, rivers, and other water bodies in Louisiana are impacted by pollutants and, as a result, do not fully support their designated uses. Twenty-nine percent of the 15,623 assessed stream miles do not fully support their designated uses. Thirty percent of the 661,028 assessed lake acres do not meet their designated uses.

Through a vigorous TMDL development program funded by the revised fee rule, the Office of Water Resources will determine TMDLs for streams which are listed as impaired on the 303(d) list. TMDL development is fundamental to restoring surface water bodies in Louisiana so that designated uses are fully supported and that human health and the environment are protected and to the continued protection of these resources.

Restoring and preserving water quality in Louisiana also has indirect but strong economic benefit for the state which counterbalances the cost of the TMDL program. As surface water occupies 7 percent of the surface area of the state, Louisiana's water resources are a significant contributor to the economy of the state. Recreational and commercial fishing contribute to over \$1,000,000,000 annually to the state's economy. Hunting and nonconsumptive outdoor activities contribute another \$656,000,000 annually to the economy. These economic benefits are largely dependent on the quality of surface water in Louisiana and could be lost or diminished if the waters of the state are not adequately protected.

For more detailed information on water quality in Louisiana and on the costs and benefits of protecting the state's waters, the reader may refer to the *Water Quality Management Plan, State of Louisiana, 1996 Water Quality Inventory, Volume 5, Part B*.

Social and Economic Costs

This rule is an amendment to simply raise fees that are already assessed and as such there are no significant costs to implement the rule. The cost of the rule to the regulated

community is the amount of the fee increase. The rule increases the annual fee on all Louisiana water discharge permittees. The annual fee for permit holders is determined by multiplying the rating points of the facility by a rate factor. Rating points are determined by wastewater type and volume. The rule increases the rating factor for all permittees (except for general permit holders) by 7.5 percent effective July 1, 1998, and by another 7.5 percent effective July 1, 1999. The rating factors and minimum and maximum fees are increased, as follows:

	Rating Factor	Minimum Fee	Maximum Fee
Municipal (Current)	\$97.50	\$227.50	\$94,500
Municipal (Year One)	\$104.81	\$244.56	\$101,587
Municipal (Year Two)	\$112.12	\$261.63	\$108,675
Other (Current)	\$179.16	\$227.50	\$94,500
Other (Year One)	\$192.60	\$244.56	\$101,587
Other (Year Two)	\$206.03	\$261.63	\$108,675

This fee increase will result in approximately a 7.5 percent increase in fee revenues across the board the first year of the fee and another 7.5 percent the second year. Based on this, the fee increase is projected to cost the regulated community approximately \$864,000 in the first year and \$1,728,000 in the second year.

By July 1, 1999, the minimum fee increase for a single facility, as a result of this revised rule, will be \$34.13, and the maximum fee increase will be \$14,175. The fee increase will affect approximately 400 municipal facilities and approximately 2,200 commercial facilities.

Conclusion

The department believes that the benefits of enhanced environmental and public health protection, as well as other benefits, outweigh the costs of implementation of the rule. Therefore, the rule is obviously the most cost-effective alternative to achieve these benefits.

Linda Korn Levy
Assistant Secretary

9710#089

POTPOURRI

Department of Health and Hospitals Board of Embalmers and Funeral Directors

Embalmer/Funeral Director Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral

Director exams on Saturday, December 13, 1997, at Delgado Community College, 615 City Park Avenue, New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Executive Director

9710#030

POTPOURRI

Department of Health and Hospitals Planning Council on Developmental Disabilities

Three-Year State Plan

The Planning Council on Developmental Disabilities wishes to announce that the Developmental Disabilities Three-Year State Plan will be available for public review from November 20, 1997 to December 20, 1997. The plan will be available at the following locations:

Families Helping Families
of Greater New Orleans
4323 Division Street
Metairie, LA 70002

Families Helping Families
of Northeast LA
3200 Northeast Road
Monroe, LA 71203

Bayou Land
Families Helping Families
1202 Tiger Drive
Thibodaux, LA 70302

Northshore Families
Helping Families
448 Highway 22 West
Madisonville, LA 70447

Families Helping Families
of Acadiana
1416 Rees Street
Breux Bridge, LA 70517

Resources for Independent
Living
1555 Poydras Avenue
Suite 1500
New Orleans, LA 70112

Families Helping Families
of Southwest LA
2927 Hodges Street
Lake Charles, LA 70601

Southwest LA Independence
Center
3505 Fifth Avenue
Lake Charles, LA 70607

Families Helping Families
at the Crossroads of LA
3211 Masonic Drive
Alexandria, LA 71301

New Horizons Independent
Living Center
6502 St. Vincent Avenue
Shreveport, LA 71106

Families Helping Families
of Northwest LA
LSU - Shreveport
One University Place
Business and Education Building
Room 363
Shreveport, LA 71115

The LA Assistive
Technology Access Network
3042 Old Forge Drive
Baton Rouge, LA 70808

The plan will also be available at all parish public libraries. Written comments should be mailed to David Legendre, Louisiana State Planning Council on Developmental Disabilities, Box 3455, Baton Rouge, LA 70821-3455 or FAX (504) 342-1970.

In addition to written comments, there will be three public hearings to give people the opportunity to further comment on

the DD Three Year State Plan. The time and locations are:
 Saturday, November 8, 1997, 10-12 a.m., Kentwood City Hall, 308 Avenue G, Kentwood, LA 70444;
 Saturday, December 6, 1997, Kenner City Hall, 1801 Williams Boulevard, Kenner, LA 70062;
 Saturday, December 13, 1997, Vernon Parish Library, 1401 Nolan Trace at Abe Allen Dr., Leesville, LA 71446.

Clarice Eichelberger
 Director

9710#087

POTPOURRI

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

Private Intermediate Care Facilities
 Mentally Retarded (ICF/MR)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following per diem rates in accordance with the reimbursement methodology established for Private Intermediate Care Facilities for the Mentally Retarded (ICF/MR) (LR 15:844).

The per diem rates published in the July 20, 1997 issue of the *Louisiana Register* are being revised to reflect an increase in the minimum wage mandated by federal law. The adjustment is based on more complete data which has become available since the original adjustment was incorporated into the per diem rates. Therefore, the per diem rates, which include an adjusted provider fee of \$9.46, shall be set as follows:

Level of Care	1-8 Beds Per Diem Rate	1-8 Beds Monthly Rate	9-32 Beds Per Diem Rate
2	\$102.82	\$3,127.44	\$85.35
3	\$110.94	\$3,374.43	\$91.95
4	\$124.71	\$3,793.26	\$99.12
5	\$128.40	\$3,905.50	\$106.92
6	\$132.63	\$4,034.16	\$115.40
7	\$146.30	\$4,449.96	\$136.19

Level of Care	9-32 Beds Monthly Rate	33+ Beds Per Diem Rate	33+ Beds Monthly Rate
2	\$2,596.64	\$81.40	\$2,475.92
3	\$2,796.81	\$87.66	\$2,666.33
4	\$3,014.90	\$94.46	\$2,873.16
5	\$3,252.15	\$101.85	\$3,097.94
6	\$3,510.08	\$115.17	\$3,503.09

7	\$4,142.45	\$123.63	\$3,760.41
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If additional information is required, contact John Marchand at (504) 342-6116.

Bobby P. Jindal
 Secretary

9710#118

POTPOURRI

**Department of Natural Resources
 Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, La. R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well No.	Serial No.
H. E. Allen	Lockport	Olin Mathieson Chemical Unit 1	001	070838
Banks Mortgage Loan, Inc.	Monroe	Bank Mortgage Loan Inc	001	087602
Berwick Mud Co., Inc.	Tullos-Urania	Hardtner-Edenborn	1-A	076167
Coastal States-Hanover Fund	Lockport	Olin Mathieson Chem Corp	001	135609
Consolidated Gas Supply Corp.	Pass Des Ilettes	LL&E A	001	128944
Consolidated Gas Supply Corp.	Wildcat	LL&E	001	126338
Damson Oil Corporation	Crowley	Hypolite Meaux	001	108812
Daniel Oil Company	Wildcat	LL&E	001	161441
Douglas Edwards	Golden Meadow	J Cheramie	004	031993
Douglas Edwards	Golden Meadow	J Cheramie	005	032341
Douglas Edwards	Golden Meadow	J Cheramie	008	033794

Francis Oil & Gas Inc.	Lamar	Wyatt	001	195198
Har Gas & Oil Corporation	Spider	Anders	1-A	035274
Harter & Langford	Wildcat	Williamson-Davis Un	001	118391
Hudd Production Co.	South Delhi	J E Holt A	010	032397
Hudd Production Co.	South Delhi	J E Holt A	014	035156
Hudd Production Co.	South Delhi	KNY SUA;J E Holt A	004	035418
Hudd Production Co.	South Delhi	J E Holt A SWD	015	036761
Hudd Production Co.	South Delhi	KNY SUM;J E Holt A	022	141591
Hudd Production Co.	South Delhi	KNY SUB;J E Holt A	024	156795
Integrated Energy Servcs. Corp.	Chacahoula	L M Talbot	001	216844
Jack Koch	Lockport	Olin Mathieson Chem Corp	001	065129
LAS Services, Inc.	Clear Creek	CC U BHC SU;1st Nat Bk BMT U35	001	055251
LAS Services, Inc.	Clear Creek	CC U BHC SU;J B Gimnick U41	002	057631
LAS Services, Inc.	Clear Creek	CC U BHC SU;J L Anderson U58	001	057770
LAS Services, Inc.	Clear Creek	CC U BHC SU:Cent Coal & Coke U21	002	058210
LAS Services, Inc.	Clear Creek	CC U BHC SU;CC-MC-Lyles U37	001	058437
LAS Services, Inc.	Clear Creek	CC U BHC SU;J L Anderson U45	002	059155
LAS Services, Inc..	Shoats Creek	9300 RB SUA;Fisher	001	212867

LAS Services, Inc.	East Manchester	Stafford Warren SWD	001	971430
LAS Services, Inc.	North Starks	Pauline K Richardson et al	001	211499
LAS Services, Inc.	Longville	Long Bell Lbr Co	001	166885
J. R. Lee Company	Big Island	Redwine	001	173238
Mississippi River Fuel Corp.-Hope Natural Gas	Wildcat	LL&E	F-1	070425
Natural Gas & Oil, A Division of Miss. River Fuel Corp. & Hope Nat. Gas Co.	Wildcat	LA Land & Exploration Co	C-1	066249
Natural Gas & Oil, A Division of Miss. River Fuel Corp. & Hope Nat. Gas Co.	Manila Village	LA Land & Exploration Co	B-1	065777
Petroleum Exchange	Gueyden	Mulvey Irrigation Company	001	024463
Petroleum Exchange	Gueyden	Mulvey Irrigation Company	007	025916
Petroleum Exchange	Gueyden	Mulvey Irrigation Company SWD	002	970624
Petroleum Exchange	Big Creek	Delta-Beam	001	198876
Petroleum Exchange	Big Creek	Delta-Beam	002	198981
Petroleum Exchange	Big Creek	Mulhern et al	001	199286
Petroleum Exchange	Hog Bayou	Carter Rutherford	001	041155
Petroleum Exchange	Hog Bayou	Carter Rutherford	003	049940
Petroleum Exchange	Hog Bayou	Carter Rutherford	004	072899
Richland Exploration Company	Big Creek	Spruell	001	183498
Shuteston Oil & Gas	Shuteston	3600 RA SUA;Sibille	001	193510
Sinclair Oil Co. of LA.	Red River-Bull Bayou	Johnson	001	001151

Sunchase Exploration, Inc.	North Cankton	VUA;L Credeur et al	001	195440
Sunchase Exploration, Inc.	North Cankton	L Credeur SWD	001	971499
Warren American Oil Company	Wildcat	LA Lands & Exploration Co	001	109725
Willett & Webb	Wildcat	Gathings	001	154547
Wol-Tex, Inc.	Glade Bayou	Lancaster	001	217299
Wol-Tex, Inc.	Glade Bayou	John M Lancaster SWD	001	972562

James H. Welch
Assistant Commissioner

9710#088

POTPOURRI

**Department of Social Services
Office of Community Services**

**Low-Income Home Energy Assistance
Program (LIHEAP) Public Hearing**

The Department of Social Services, Office of Community Services will hold a public hearing concerning the use and distribution of federal fiscal year 1998 LIHEAP block grant funds in accordance with the LIHEAP State Plan for 1998. The primary purpose of this program is to reduce the burden of home heating and cooling expenses for low-income households through direct payments to home energy suppliers. The second goal is to conserve energy and reduce energy costs of low-income households through the weatherization of dwelling units. The final goal is to provide for energy crisis intervention in instances of weather-related and supply-shortage emergencies.

Delivery of services will be via contractual agreements between local community action agencies or local governmental bodies and the Department of Social Services, Office of Community Services. Each parish will receive a portion of funds based on the number of low-income households residing in the parish and Louisiana's total grant.

Louisiana's share of FFY 1998 LIHEAP block grant funds is anticipated to be near \$9,000,000. However, the final appropriation will be determined by Congress and the President. Should Louisiana's funding level for 1998 be significantly reduced, benefit levels to eligible households will be decreased effective with the new program year beginning January 1, 1998.

Copies of the *1998 Low-Income Home Energy Assistance Program Plan* are available by writing to Shirley B. Goodwin, Assistant Secretary, Office of Community Services at Box 3318, Baton Rouge, LA 70821. Comments regarding the 1998 LIHEAP Plan will be accepted through November 11, 1997.

A public hearing regarding the LIHEAP plan will be held at 1:30 p.m., Thursday, October 30, 1997 at 333 Laurel Street, Baton Rouge, LA, Room 806 (eighth floor conference room).

Madlyn B. Bagneris
Secretary

9710#119

POTPOURRI

**Department of Transportation and Development
Sabine River Compact Administration**

Spring Meeting

The spring meeting of the Sabine River Compact Administration will be held at the Holiday Inn Beaumont Plaza, Beaumont, Texas, Friday, October 24, 1997, at 9:30 a.m.

The purpose of the meeting will be to conduct business as programmed in Article IV of the bylaws of the Sabine River Compact Administration.

The spring meeting will be held at a site in Louisiana to be designated at the above described meeting.

Contact person concerning this meeting is Mary H. Gibson, Secretary, Sabine River Compact Administration, 15091 Texas Highway, Many, LA 71449, (318) 256-4112.

Mary H. Gibson
Secretary

9710#017

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[] ISIS AGENCY: I certify the availability of fiscal year _____ appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

AGENCY ORGANIZATION # OBJECT SUB-OBJECT REPORTING CATEGORY

[] NON-ISIS AGENCY: I certify the availability of fiscal year _____ appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

Billing Address for Agencies:

Signature of Agency Head or Designee - Phone #

Agency Name

Street Address or Post Office Box

City ST Zipcode

Office of the State Register Use Only

1/4 PG + ___ Lines 1/2 PG + ___ Lines 3/4 PG + ___ Lines

Full PG(s) + ___ Lines Typesetting ___ TOTAL

EMERGENCY RULE (ER) INSTRUCTIONS:

1) For an ER which **HAS NOT BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous ER or as a NOI), send the new ER on *diskette and include in this order: opening/introductory paragraphs containing effective date and number of days ER in effect; and rule text in LAC codified form with updated Authority and Historical Notes.

2) For an ER which **HAS BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous ER or as a NOI):

a) if **MINOR REVISIONS** are made, XEROX a copy of the previous ER or NOI from the *Louisiana Register*, and show changes/revisions with a red pen; or

*b) if **MAJOR REVISIONS** are made, send a new ER on *diskette and include in this order: opening/introductory paragraphs containing effective date and number of days ER in effect; and rule text in LAC codified form with updated Authority and Historical Notes.

NOTICE OF INTENT (NOI) INSTRUCTIONS:

1) For a NOI which **HAS NOT BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous NOI or as an ER):

a) send the new NOI on *diskette and include, in this order: opening/introductory paragraphs; rule text in LAC codified form with updated Authority and Historical Notes; interested persons paragraph; and public hearing paragraph (if one is scheduled). **ALSO** send first page of fiscal statement containing **ORIGINAL** signatures.

2) For a NOI which **HAS BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous NOI or as an ER):

a) if **MINOR REVISIONS** are made, XEROX a copy of the previous NOI or ER from the *Louisiana Register*, and show changes/revisions with a red pen; send a *diskette with opening/introductory paragraphs; interested persons paragraph; and public hearing paragraph (if one is scheduled). **ALSO** send first page of fiscal statement containing **ORIGINAL** signatures; **OR**

*b) if **MAJOR REVISIONS** are made, send a new NOI on *diskette and include, in this order: opening/introductory paragraphs; rule text in LAC codified form with updated Authority and Historical Notes; interested persons paragraph; and public hearing paragraph (if one is scheduled). **ALSO** send first page of fiscal statement containing **ORIGINAL** signatures.

RULE INSTRUCTIONS:

1) If the NOI was published in full (rule text included) XEROX the entire NOI from the *Louisiana Register* (including page numbers and document number at the end of the fiscal statement) and show changes/revisions with a red pen.

2) If the NOI referenced the reader to rule text in an ER, XEROX the entire NOI from the *Louisiana Register* (including page numbers and document number at the end of the fiscal statement) and XEROX the entire ER from the *Louisiana Register* (including page numbers and document number at the end of the document); show changes/revisions with a red pen.

3) If the NOI was referenced (rule text was not printed) xerox the entire NOI from the *Louisiana Register* (including page numbers and document number at the end of the fiscal statement) and show changes/revisions with a red pen. **IMPORTANT: if changes/revisions have been made to unpublished rule text since it was originally proposed through the NOI, send a NEW *diskette of the rule text with all changes incorporated in the document.**

POTPOURRI INSTRUCTIONS:

Send a *diskette containing the document.



Statement of Ownership, Management, and Circulation

(Required by 39 USC 3685)

1. Publication Title Louisiana Register	2. Publication Number <table border="1" style="width: 100%; text-align: center; border-collapse: collapse;"> <tr> <td style="width: 10%;">0</td> <td style="width: 10%;">0</td> <td style="width: 10%;">0</td> <td style="width: 10%;">7</td> <td style="width: 10%;">-</td> <td style="width: 10%;">5</td> <td style="width: 10%;">4</td> <td style="width: 10%;">5</td> <td style="width: 10%;">0</td> </tr> </table>	0	0	0	7	-	5	4	5	0	3. Filing Date 10/06/97
0	0	0	7	-	5	4	5	0			
4. Issue Frequency Monthly	5. Number of Issues Published Annually 12	6. Annual Subscription Price \$65.00									
7. Complete Mailing Address of Known Office of Publication (Not printer) (Street, city, county, state, and ZIP+4) 1051 North Third Street, Rm. 512, Baton Rouge, LA 70802 P. O. Box 94095, Baton Rouge, LA 70804-9095		Contact Person Kathy M. Bates Telephone (504) 342-5015									
8. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not printer) Same As Above.											

9. Full Names and Complete Mailing Addresses of Publisher, Editor, and Managing Editor (Do not leave blank)

Publisher (Name and complete mailing address)
 Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802.

Editor (Name and complete mailing address)
 Suzanne McAndrew, Office of the State Register, P.O. Box 94095, Baton Rouge, LA 70804-9095.

Managing Editor (Name and complete mailing address)

10. Owner (Do not leave blank. If the publication is owned by a corporation, give the name and address of the corporation immediately followed by the names and addresses of all stockholders owning or holding 1 percent or more of the total amount of stock. If not owned by a corporation, give the names and addresses of the individual owners. If owned by a partnership or other unincorporated firm, give its name and address as well as those of each individual owner. If the publication is published by a nonprofit organization, give its name and address.)

Full Name	Complete Mailing Address
Office of the State Register	1051 North Third St., Rm. 512, Baton Rouge LA 70802

1. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities. If none, check box None

Full Name	Complete Mailing Address

2. Tax Status (For completion by nonprofit organizations authorized to mail at special rates) (Check one)
 The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes:

Has Not Changed During Preceding 12 Months
 Has Changed During Preceding 12 Months (Publisher must submit explanation of change with this statement)

13. Publication Title Louisiana Register		14. Issue Date for Circulation Data Below September 20, 1997	
15. Extent and Nature of Circulation		Average No. Copies Each Issue During Preceding 12 Months	Actual No. Copies of Single Issue Published Nearest to Filing Date
a. Total Number of Copies (<i>Net press run</i>)		1074	1041
b. Paid and/or Requested Circulation	(1) Sales Through Dealers and Carriers, Street Vendors, and Counter Sales (<i>Not mailed</i>)		
	(2) Paid or Requested Mail Subscriptions (<i>Include advertiser's proof copies and exchange copies</i>)	684	641
c. Total Paid and/or Requested Circulation (<i>Sum of 15b(1) and 15b(2)</i>) ▶		684	641
d. Free Distribution by Mail (<i>Samples, complimentary, and other free</i>)		76	76
e. Free Distribution Outside the Mail (<i>Carriers or other means</i>)		-	-
f. Total Free Distribution (<i>Sum of 15d and 15e</i>) ▶		76	76
g. Total Distribution (<i>Sum of 15c and 15f</i>) ▶		760	717
h. Copies not Distributed	(1) Office Use, Leftovers, Spoiled	314	324
	(2) Returns from News Agents	-	-
i. Total (<i>Sum of 15g, 15h(1), and 15h(2)</i>) ▶		1074	1041
Percent Paid and/or Requested Circulation (<i>15c / 15g x 100</i>)			

16. Publication of Statement of Ownership
 Publication required. Will be printed in the October 1997 issue of this publication.
 Publication not required.

17. Signature and Title of Editor, Publisher, Business Manager, or Owner

Date

10/06/97

Suzanne McAndrew, Editor

I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including multiple damages and civil penalties).

Instructions to Publishers

- Complete and file one copy of this form with your postmaster annually on or before October 1. Keep a copy of the completed form for your records.
- In cases where the stockholder or security holder is a trustee, include in items 10 and 11 the name of the person or corporation for whom the trustee is acting. Also include the names and addresses of individuals who are stockholders who own or hold 1 percent or more of the total amount of bonds, mortgages, or other securities of the publishing corporation. In item 11, if none, check the box. Use blank sheets if more space is required.
- Be sure to furnish all circulation information called for in item 15. Free circulation must be shown in items 15d, e, and f.
- If the publication had second-class authorization as a general or requester publication, this Statement of Ownership, Management, and Circulation must be published; it must be printed in any issue in October or, if the publication is not published during October, the first issue printed after October.
- In item 16, indicate the date of the issue in which this Statement of Ownership will be published.
- Item 17 must be signed.

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