

The following list contains up-to-date, *CERTIFIED ENVIRONMENTAL QUALITY* publications currently available through the Office of the State Register:

VOLUME 11, AIR QUALITY (5/91)	\$61.80
(Out-of-state purchases	\$60.00)
VOLUME 11A, AIR QUALITY AMENDMENTS (TO DATE)	\$36.05
(Out-of-state purchases	\$35.00)
VOLUME 12, AIR QUALITY (12/87)	\$61.80
(Out-of-state purchases	\$60.00)
VOLUME 12A, AIR QUALITY AMENDMENTS (TO DATE)	\$15.45
(Out-of-state purchases	\$15.00)
VOLUME 13, HAZARDOUS WASTE AND HAZARDOUS MATERIALS (9/91)	\$61.80
(Out-of-state purchases	\$60.00)
VOLUME 13A, HAZARDOUS WASTE AND HAZARDOUS MATERIALS AMENDMENTS (TO DATE)	\$25.75
(Out-of-state purchases	\$25.00)
VOLUME 14WQ, WATER QUALITY (11/91)	\$61.80
(Out-of-state purchases	\$60.00)
VOLUME 14SW, SOLID WASTE (2/93)	\$61.80
(Out-of-state purchases	\$60.00)
VOLUME 14UT, UNDERGROUND TANKS (1/92)	\$41.20
(Out-of-state purchases	\$40.00)
VOLUME 15, NUCLEAR ENERGY (4/88)	\$61.80
(Out-of-state purchases	\$60.00)
VOLUME 15A, NUCLEAR ENERGY AMENDMENTS (TO DATE) ...	\$15.45
(Out-of-state purchases	\$15.00)
VOLUME 17, NATURAL RESOURCES (6/90)	\$61.80
(Out-of-state purchases	\$60.00)

PLEASE NOTE: Prices may change as amendments are incorporated into amendment booklets to bring the printed regulations up-to-date.

MAKE CHECKS PAYABLE TO: Office of State Register, P.O. Box 94095, Baton Rouge, LA 70804-9095

NOTE: TO ALL SOLID WASTE, VOLUME 14SW
SUBSCRIBERS

SOLID WASTE REGULATIONS HAVE BEEN
COMPLETELY REVISED AND ARE EFFECTIVE
UPON PUBLICATION OF THIS FEBRUARY,
1993 *LOUISIANA REGISTER*. PLEASE SEE
PREVIOUS PAGE FOR INSTRUCTIONS ON
ORDERING THE NEW SOLID WASTE
REGULATIONS, VOLUME 14SW.

CONTENTS

I. EMERGENCY RULES

Agriculture and Forestry Department:	
Office of Forestry, Forestry Commission — Seedling Prices (LAC 7:XXXIX.20301)	118
Economic Development Department:	
Racing Commission—Corrupt and Prohibited Practices (LAC 35:I.Chapter 17)	118
Permitted Medication in Two-Year-Old Horses (LAC 35:I.1503).....	119
Education Department:	
Board of Elementary and Secondary Education—Bulletin 1868—Employee Grievances	120
Model Career Options Program Guide (MCOP)	120
Parish Superintendents' Advisory Council	120
Health and Hospitals Department:	
Board of Certification of Substance Abuse Counselors—Complete Rules Revision (LAC LXXX. Chapters 1-19)	120
Office of Management and Finance—Health Services Provider Fees	136
Office of the Secretary, Bureau of Health Services Financing—Community Care Program	137
Early, Periodic, Screening Diagnostic Testing and Treatment (EPSDT) Program	138
Facility Need Review—ICF/MR Approved Beds.....	139
Neurological Rehabilitation Treatment Program	139
Non-Emergency Medical Transportation Program.....	142
Justice Department:	
Office of the Attorney General—Administration of Louisiana Open Housing Act	142
Louisiana Economic Development and Gaming Corporation:	
Corporation Formation, Powers and Liability (LAC 42:IX.Chapters 9-13)	143
Public Safety and Corrections Department:	
Office of the Secretary—Compulsory Liability Security—Removal and Destruction of License Plate	153
Office of State Police—Riverboat Gaming Division—License, Permit, Compliance, Inspections and Investigations (LAC 42:XIII.Chapters 17-23)	154
Social Services Department:	
Office of Community Services—Child Protection Investigation Report Acceptance	165
Office of Family Support—Individual and Family Grant Program (LAC 67:III.6501, 6502)	167
State Department:	
Office of the Secretary—Executive Branch Lobbying.....	167
Treasury Department:	
Louisiana Housing Finance Agency—Emergency Home Investment Partnership Program	169
Wildlife and Fisheries Department:	
Wildlife and Fisheries Commission—Oyster Daily Quota.....	170
Red Snapper Limits.....	170

II. RULES

Economic Development Department:	
Real Estate Commission—Branch Office Supervision (LAC 46:LXVII.2403).....	171
Education Department:	
Board of Elementary and Secondary Education—	
Bulletin 1191—School Transportation Handbook.....	171
Bulletin 1508—Pupil Appraisal Handbook	171
Bulletin 1525—Personnel Evaluation (LAC 28:I.917)	171
Bulletin 1573—Complaint Management System	172
Bulletin 1706—Exceptional Children's Act.....	172
8(g) Policy Manual	172
Louisiana Components of Effective Teaching (LCET).....	173
Waiver of Minimum Standards (LAC 28:I.313)	173
Proprietary School Commission—Annual Licensure Renewal Fee (LAC 28:I.1803)	173
Annual Student Protection Fund Fee Assessment (LAC 28:I.1801)	174

This public document was published at a total cost of \$4,443.07. 1,050 copies of this document were published in this monthly printing at a cost of \$2,443.07. The total cost of all printings of this document including reprints is \$4,443.07. This document was published by Moran Printing, Inc., 5425 Florida Blvd., Baton Rouge, LA 70806, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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

Student Financial Assistance Commission, Office of Student Financial Assistance—Louisiana Employment Opportunity (LEO) Loan Program Lender Selection	175
Elections and Registration Department:	
Commissioner of Elections—Procurement of Voting Machine Storage and Drayage Services (LAC 31:III.711).....	175
Voting Equipment Procurement and Certification (LAC 31:III.Chapter 9)	176
Environmental Quality Department:	
Office of Air Quality and Radiation Protection, Air Quality Division—Permit Procedures—Emissions from Nonattainment Areas (AQ66)(LAC 33:III.504)	176
Emissions and Emissions Standards (AQ60) (LAC 33:III.919)	184
Polychlorinated Dibenzo-p-dioxins and Polychlorinated Dibenzofurans from Stationary Sources (LAC 33:III.6081.C)(AQ56).....	186
Office of Solid and Hazardous Waste—Hazardous Waste Division—Land Ban Petition (HW37)(LAC 33:V.2242).....	186
Solid Waste (SW05)(LAC 33:VII.Chapters 1-11).....	187
Governor's Office:	
Division of Administration—Louisiana Community Development Block Grant—LCDBG Program (FY 1993 Final Statement)	188
Patient's Compensation Fund Oversight Board—Actuarial Study; Annual Report (LAC 37:III.703,1311)	204
Health and Hospitals Department:	
Board of Dentistry—Dental Assistants (LAC 46:XXXIII.Chapter 5)	205
Dental Hygienists Authorized Duties (LAC 46:XXXIII.Chapter 7)	206
Fees and Costs (LAC 46:XXXIII.411 and 420)	207
Hepatitis B Virus and Human Immunodeficiency Virus (LAC 46:XXXIII.1206)	207
Board of Physical Therapy Examiners—Physical Therapist Assistant (LAC 46:LIV.Chapters 1-3)	208
Board of Veterinary Medicine—Preceptorship Requirements (LAC 46:LXXXV.1103)	208
Bureau of Health Services Financing—Personal Care Attendant Services	208
Office of Public Health—Tanning Facility	209
HIV Reporting	211
Labor Department:	
Office of Workers' Compensation—Medical Reimbursement Schedules (LAC 40:I.Chapters 25-51)	212
Revenue and Taxation Department:	
Tax Commission—Ad Valorem Tax (LAC 61:V.Chapters 7-35)	212
Social Services Department:	
Office of Family Support—Food Stamp Disaster Program (LAC 67:III.1713)	213
Individual and Family Grant Program (LAC 67:III.Chapter 65)	213
Rehabilitation Services—Supported Employment Program	214
Supported Living Program	214
Treasury Department:	
Board of Trustees of the State Employees Group Benefits Program—Plan Document	215
Wildlife and Fisheries Department:	
Wildlife and Fisheries Commission—Alligator Harvest (LAC 76:V.701)	215
Bait Dealers Permit (LAC 76:VII.329)	215

III. NOTICES OF INTENT

Agriculture and Forestry Department:	
Office of Agricultural and Environmental Sciences—Pesticide Waste and Pesticide Cash Sales (LAC 7:XXIII.Chapter 131 and 132).....	216
Office of Forestry—Forest Tree Seedling Prices (LAC 7:XXXIX.20301).....	218
Civil Service Department:	
Civil Service Commission—Minimum Charge for Sick Leave	219
Economic Development Department:	
Office of Financial Institutions—Sale of Certain Annuities by State Chartered Banks (LAC 10:I.571 and 573).....	219
Self Help Repossession (LAC 10:V.Chapter 7)	221
Racing Commission—Designated Race (LAC 46:XLI.749).....	222
Environmental Quality Department:	
Air Quality and Radiation Protection, Air Quality Division—Municipal Waste Combustors (AQ63) (LAC 33:III.3175)	222
Radiation Division—NORM Fee Regulations (NE06) (LAC 33:XV.Chapter 25)	223
Firefighters' Pension Board of Trustees and Relief Fund of New Orleans Vicinity:	
Direct Rollovers	226
Partial Buy Back and Partial Restoration of Forfeited Credit of Service	227
Governor's Office:	
Office of Elderly Affairs—Long Term Care Assistance Program (LAC 4:VII.1237)	228
Health and Hospitals Department:	
Board of Certification of Substance Abuse Counselors—Revised Rules.....	229
Office of Public Health—Sanitary Code—Consumer Alert on Oysters	230
Office of the Secretary—Bureau of Health Services Financing—Certified Medicaid Enrollment Centers	232
Chronically Mentally Ill Case Management.....	233
Community Care Program	234

HIV Disabled Case Management.....	234
High-Risk Pregnancy Case Management.....	235
ICF/MR Facility Residents Medical Services	236
Mentally Retarded/Developmentally Disabled Case Management.....	236
Non-emergency Medical Transportation Program	237
Physician Visits for Medical Beneficiaries Under 21	239
Specified Low-Income Medicare Beneficiaries	241
Targeted Case Management for Developmentally Delayed Infants and Toddlers	242
Ventilator Assisted Children Care Management	243
Public Safety and Corrections Department:	
Corrections Services—Adult Inmates Disciplinary Rules (LAC 22:I.Chapter 3)	243
Office of Management and Finance—Automated Copy Fees (LAC 55:XI.101 and 103)	244
Office of State Police—Breath-Alcohol Ignition Interlock Device (LAC 55:I.Chapter 6)	245
Social Services Department:	
Office of the Secretary—Child Care Assistance Program (LAC 67:I.103).....	249
Treasury Department:	
Board of Trustees of the State Employees Group Benefits Program—	
Plan Document Benefits—Room and Board.....	249
Plan Document Revisions	250
Wildlife and Fisheries Department:	
Wildlife and Fisheries Commission—Caddo Lake Black Bass (LAC 76:VII.167)	254
Toledo Bend Reciprocal Agreement (LAC 76:VII.110)	254

IV. COMMITTEE REPORTS

Environmental Quality:	
Office of Solid and Hazardous Waste, Solid Waste Division—Solid Waste Revisions (SW05) (LAC 33:VII.Chapters 1-11).....	255
Solid Waste Revisions (Governor’s Response)	255

V. POTPOURRI

Agriculture and Forestry Department:	
Horticulture Commission—Landscape Architect Examination	256
Retail Floristry Examination	256
Health and Hospitals Department:	
Board of Board Certified Social Work Examiners—Meeting Dates	256
Board of Embalmers and Funeral Directors—Examinations	257
Office of the Secretary—Bureau of Health Services Financing—Narcotics and Controlled Substances	257
Utilization Review.....	257
Social Services Department:	
Office of Community Services—Emergency Shelter Grants Program (ESGP)	257

EMERGENCY RULES

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Forestry
Forestry Commission

Seedling Prices
(LAC 7:XXXIX.20301)

The Department of Agriculture and Forestry, Office of Forestry Commission is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 7:XXXIX.20301 pertaining to seedling prices.

Emergency adoption is necessary in order that the Office of Forestry fulfill the provisions of R.S. 3:4303 to grow and provide tree seedlings to Louisiana landowners at a minimum cost. This emergency adoption will enable the Office of Forestry to market all available tree seedlings currently unsold.

This declaration of emergency is effective January 25, 1993 and remains in effect for 120 days or until this rule takes effect through the normal promulgation process.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 203. Tree Seedlings

§20301. Seedling Prices

A. The Louisiana Forestry Commission adopts the following prices for forest tree seedlings:

1. Improved Pine Seedlings \$ 30 per thousand
2. Special Pine Seedlings 50 per thousand
3. Hardwood Seedlings 150 per thousand

B.1. Volume discounts for bulk loblolly/slash pine seedling orders and contracts shall be as follows:

Order/Sale Volume (# seedlings)	Proposed Discounted Prices
- 1,000,000	\$30.00/M
1,000,001 - 2,000,000	\$29.50/M
2,000,001 - 3,000,000	\$29.00/M
3,000,001 - 4,000,000	\$28.50/M
4,000,001 - 5,000,000	\$28.00/M
5,000,001 - 6,000,000	\$27.50/M
6,000,001 -	\$27.00/M

The Office of Forestry seed costs shall be deducted from these prices when seedlings are produced from seed supplied by the customer.

2. When there is a surplus of seedlings above planned or expected sales, a more accelerated rate of price reductions will be considered, subject to approval of the state forester and/or commissioner of Agriculture.

3. This accelerated rate of discounts will be applied no earlier than 30 days prior to the anticipated end of the annual lifting season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1503, redesignated R.S. 3:4303.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry and the Louisiana Forestry Commission, LR 8:285 (June 1982), amended LR 10:458 (June 1984), amended by the Department of Agriculture and Forestry, Office of Forestry and Louisiana Forestry Commission, LR 13:432 (August 1987), amended LR 19:

Bob Odom
Commissioner

DECLARATION OF EMERGENCY

Department of Economic Development
Racing Commission

Corrupt and Prohibited Practices
(LAC 35:I.Chapter 17)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts/amends the following emergency rule effective February 21, 1993, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever occurs first.

The State Racing Commission finds it necessary to amend/adopt this emergency rule to be consistent with other states' rules concerning permitted medication in two-year-old horses, and to conform to penalty guidelines established by the Association of Racing Commissioners International, Inc.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1722. Medication in Two-Year-Olds

Notwithstanding anything in any rule of racing, medication, except bleeder medication, shall not be prescribed, dispensed or administered to a two-year-old horse to be raced or racing, or when there is racing planned for a two-year-old horse, in the state of Louisiana.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission LR 12:11 (January 1986), amended by the Department of Economic Development, Racing Commission LR 19:

§1795. Classification of Foreign Substances by Category

Prohibited drugs and prohibited substances are classified in the appropriate one of five classes.

A. Known and identified prohibited drugs and substances are classified and listed according to their appropriate class as defined in the Association of Racing Commissioners International, Inc. Drug Testing and Quality Assurance Program's *Uniform Classification Guidelines for Foreign Substances*.

B. Unknown or unidentified drugs or substances which are prohibited but not listed shall be appropriately classified by the state chemist upon discovery or detection. A supplemental listing of the appropriate classification of such discovered or detected drugs shall be maintained at the domicile office and be made available to the public upon request. A prohibited drug or substance remains prohibited regardless of whether it is listed.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission LR 19:

§1797. Penalty Guidelines

A. Upon finding a violation by a permittee of prohibited medication rules, of prohibited substance rules, or of improper or excessive use of permitted medications, the stewards, or the commission, shall consider the classification level as set forth in §1795 and will, in the absence of mitigating or aggravating circumstances, endeavor to impose penalties and disciplinary measures consistent with the recommended guidelines contained herein. Whenever a majority of the stewards find or conclude that there are mitigating or aggravating circumstances, they should so state in their ruling such finding or conclusion, and should impose the penalty which they find is appropriate under the circumstances to the extent of their authority or, if necessary, refer the matter to the commission with specific recommendations for further action.

B. The recommended guidelines for a violation of each classification level are as follows:

1. *Class I:* suspension of license for a period of not less than one year and not more than five years and a fine of \$5,000. The purse shall be redistributed.

2. *Class II:* suspension of license for a period of not less than six months and not more than one year and a fine of not less than \$1,500 and not more than \$2,500. The purse shall be redistributed.

3. *Class III:* suspension of license for a period of not less than sixty days and not more than six months and/or a fine of not more than \$1,500. The purse shall be redistributed.

4. *Classes IV and V:*

a. on a first violation within a 12-month period, a fine of \$200;

b. on a second violation within a 12-month period, a fine of \$500;

c. on a third or subsequent violation within a 12-month period:

i. suspension of license;

ii. fine of \$1,500;

iii. order the purse redistributed; and

iv. refer the permittee to the commission.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission LR 19:

Oscar J. Tolmas
Chairman

DECLARATION OF EMERGENCY

Department of Economic Development Racing Commission

Permitted Medication in Two-Year-Old Horses (LAC 35:I.1503,1511)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts/amends the following emergency rule effective February 21, 1993, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this rule to be consistent with other states' rules concerning permitted medication in two-year-old horses.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 15. Permitted Medication

§1503. Two-year-olds

The only "Permitted Medication" for two-year olds for racing shall be bleeder medication as defined in §1509. The presence of any other "Permitted Medication" or of any drug or substance in the blood or urine specimen of a two-year old horse, regardless of the level thereof, shall be prima facie evidence of the presence of such medication or drug and a violation of this rule.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission LR 2:451 (December 1976), repromulgated LR 4:289 (August 1978), amended LR 6:620 (December 1981), LR 9:547 (August 1983), amended by Department of Economic Development, Racing Commission LR 19:

§1511. Violations of Permitted Medication Rules

After notice and hearing, any person found to have violated the provisions of the permitted medication rule may be punished by fine, and/or suspension, and/or revocation of his/her license.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission LR 6:174 (May 1980), amended LR 9:548 (August 1983), amended by the Department of Economic Development, Racing Commission LR 16:765 (September 1990), LR 19:

Oscar J. Tolmas
Chairman

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1868, BESE Personnel Manual
Employee Grievances

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and re-adopted as an emergency rule, an amendment to Bulletin 1868, BESE Personnel Manual, Chapter G: Employee Grievances. This amendment was previously adopted as an emergency rule and printed in full in the November, 1992 issue of the *Louisiana Register*, on pages 1205-1206. Re-adoption as an emergency rule is necessary in order to continue the present emergency rule until it is finalized as a rule. Effective date of this emergency rule is February 21, 1993.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Model Career Options Program Guide (MCOP)

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R. S. 49-953(B) and readopted as an emergency rule, a revision to the Louisiana Model Career Options Program Guide (MCOP) as stated below.

The MCOP Guide affects teachers who are eligible to participate in the Model Career Options Program in the 1992-93 school year. Re-adoption of this revision as an emergency rule is necessary in order to continue this revision until it is finalized as a rule. Effective date of this emergency rule is February 21, 1993. This revision was previously adopted as an emergency rule and printed on page 1065 of the October, 1992 issue of the *Louisiana Register*.

Amendment to Model Career Options Program Guide (MCOP)

On page 23, *delete* the following paragraph:

"Because the additional services provided by the MCOP teacher do not meet the definition of *Earnable Compensation* in R. S. 17:541(9), neither the employee's nor employer's share of the additional MCOP compensation shall be remitted to the Teacher's Retirement System of Louisiana. Therefore, no deduction for the teacher's retirement shall be made from the MCOP teacher's compensation".

On page 23, *add* the following paragraph:

"If funds are available from the Louisiana Legislature for

the MCOP, the employer's portion of the contribution to the teacher's retirement fund will be provided to the LEAs as a part of the overall MCOP funding".

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Parish Superintendents' Advisory Council

The State Board of Elementary and Secondary Education exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved the composition of the Parish Superintendents' Advisory Council as stated below:

1. The Parish Superintendents' Advisory Council shall be made up of 23 superintendents:

A. Each board member shall make two appointments with at least one member, if possible, coming from a rural system;

B. The president of the Louisiana Association of School Superintendents shall serve as chairman of the council;

2. Eight superintendent members in attendance shall constitute a quorum;

3. If a council member cannot be present for a meeting, he can appoint another superintendent from his district to represent him. The representative will have voting privileges.

Emergency adoption is necessary in order that council appointments can be made and representatives serving as a proxy may have voting privileges. Effective date of the emergency rule is January 21, 1993, and supersedes the previously adopted emergency rule printed in the November, 1992 issue of the *Louisiana Register* on page 1206.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Certification of Substance Abuse Counselors

Complete Rules Revision (LAC LXXX.Chapters 1-19)

The Louisiana State Board of Certification for Substance Abuse Counselors (LSBCSAC) has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to completely revise LAC 46:LXXX pertaining to the rules which govern the LSBCSAC, the certification of substance

abuse counselors, and the practice of substance abuse counseling. These rules are prepared by the board to provide for and implement its authority and responsibility pursuant to the Substance Abuse Counselor Certification Act (the act), R.S. 37:3371-3384.

The need for emergency action is to respond to the act as amended which has reorganized the membership of the board. This reorganization necessitates restructuring the functions of the board and dictates establishing promulgated rules for all duties required by the act.

The effective date of this emergency rule is January 23, 1993 and it shall remain in effect for 120 days or until it takes effect through the normal promulgation process, whichever is shortest.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXX. Board of Certification for Substance Abuse Counselors

Chapter 1. General Provisions

§101. Scope

The rules of this Part are relative to and govern the Louisiana State Board of Certification for Substance Abuse Counselors (the board) within the Department of Health and Hospitals, the certification for substance abuse counselors, and the practice of substance abuse counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:

§103. Source and Authority

These rules are promulgated by the board to provide for and implement its authority and responsibility pursuant to the Substance Abuse Counselor Certification Act (the act), R.S. 37:3371-3384.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1075 (December, 1989), amended LR 19:

§105. Definitions

A. As used in these rules, the following terms shall have the meanings specified:

Act—the Substance Abuse Counselor Certification Act, Act 1987, No 382, §2, as amended, R.S. 37:3371-3384.

Board—the Louisiana State Board of Certification for Substance Abuse Counselors. The acronym "LSBCSAC" shall also refer to this board.

Board Approved Clinical Training Program—any clinical setting involving substance abuse treatment or substance abuse counseling services which has applied for, received, and maintained approval by the board. The board shall provide for institutions to register as being board approved for clinical training in substance abuse counseling.

Board Approved Educational Program—any course, workshop, seminar, conference or other educational program presented by an organization which has applied for, received, and maintained approval by the board. The board shall

provide for organizations to register as being board approved as an education provider in the field of substance abuse counseling.

Board Approved Institution of Higher Education—any college or university accredited by a recognized regional accrediting body which has applied for, received, and maintained approval of the board. The board shall provide for institutions of higher education to register as being board approved for higher education in substance abuse counseling.

Core Functions—the screening, intake, orientation, assessment, treatment planning, counseling, case management, crisis intervention, client education, referral, reports and record keeping, and consultation with professionals.

Qualified Professional Supervisor—a substance abuse counselor who has been certified and has worked in a licensed or board approved substance abuse treatment program for a minimum of two years; or a credentialed professional such as a board certified social worker, licensed psychologist, or licensed physician; or any other professional recognized as a trainer by the board upon presentation of verification and documentation of expertise. The board shall provide for qualified professional supervisors to register as substance abuse counselor supervisors.

Substance Abuse—the repeated pathological use of drugs, including alcohol, which causes physical, psychological, economic, legal, or social harm to the individual user or to others affected by the user's behavior.

Substance Abuse Counselor—any person who, by means of his specific knowledge acquired through formal education and practical experience, is qualified to provide substance abuse counseling services which utilize the basic core functions specific to substance abuse counseling and is certified as such by the board. The board shall consider any person providing such services as purporting to be a substance abuse counselor.

B. All terms used in these rules which are defined by the act, R.S. 37:3372, shall have the same meanings in these rules as defined by the act.

C. Masculine terms wheresoever used in these rules shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1075 (December, 1989), amended LR 19:

§107. Severability

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1075 (December, 1989), amended LR 19:

§109. Board Procedures and Administration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), repealed LR 19: Chapter 3. Practice

§301. Scope of Practice

A. The practice of substance abuse counseling within the meaning and intent of these rules and regulations shall consist of the rendering of professional guidance to abusers of drugs or alcohol to assist them in gaining an understanding of the nature of their disorder and developing an maintaining a responsible lifestyle free of substance abuse. The scope of practice shall include making appropriate referrals to qualified professionals, providing counseling to family members when appropriate, and utilizing the core functions of substance abuse counseling.

B. Nothing in these rules and regulations shall be construed to authorize a substance abuse counselor to practice medicine, social work, or psychology, or to provide counseling for disorders other than substance abuse. A substance abuse counselor shall not order, administer, or interpret psychological tests or utilize psychometric procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1076 (December, 1989), amended LR 19:

§303. Minimum Standards of Practice

The minimum standard of practice will be met if:

1. the counselor is certified and in good standing with the board;

2. the counselor adheres to the code of ethics as set forth in these rules; and

3. the counselor practices within the scope of practice defined in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1077 (December, 1989), amended LR 19:

§305. Acceptance of Application

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), repealed LR 19:

§307. Renewal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), repealed LR 19:

§309. Denial or Revocation of Certification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), repealed LR 19: Chapter 5. Organization, Functions, and Delegation of Authority

§501. Fees

A. The board shall be financially self-sufficient. It shall receive no state funds through appropriation or otherwise and shall not expend or commit to expend any such state funds.

B. To defray the cost of administering the provisions of the act, the board shall fix reasonable fees to be assessed and reasonable penalties to be assessed for late renewal of certification and other administrative infractions.

C. The fees for application, certification, registration, and other services of the LSBCSAC shall be set by the board annually upon adoption of the budget for the fiscal year. Each fee shall not exceed \$200 and the total shall not exceed the amount required to maintain and pay the operating expenses of the board.

D. The fee schedule shall be as follows. It shall be available upon request made to the board.

1. Application	\$ 50
2. Initial Certification	\$150
3. Examination	\$150
4. Certification by Transition	\$150
5. Certification by Reciprocity	\$150
6. Renewal of Certification	\$150
7. Late Fee for Renewal of Certification	\$100
8. Reinstatement of Certification	\$100
9. Replacement of Lost/Destroyed Certificate	\$ 25
10. Appeal of Committee Decision	\$ 50
11. Special Handling	\$ 15
12. Express Mail	\$ 10
13. Request for Waiver	\$ 25
14. Registration as CIT	\$ 25
15. Renewal of Registration as CIT	\$ 25
16. Registration as RCS	\$ 75
17. Renewal of Registration as RCS	\$ 50
18. Registration as ATI	\$200
19. Renewal of Registration as ATI	\$150
20. Registration as AEP	\$100
21. Renewal of Registration as AEP	\$ 75
22. Registration as AIHE	\$100
23. Renewal of Registration as AIHE	\$ 75
24. Late Fee for Renewal of Any Registration	\$ 50
25. Single Course Approval Fee	\$ 30

26. Filing of Course Attendance (per person)	\$ 1
27. Minimum Filing Fee (per course)	\$ 10
28. Copies of Records (per page)	\$ 1
29. Research of Closed Records (each)	\$ 10

E. All fees are non-refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1078 (December, 1989), amended LR 19: §503. **Board Organization, Procedure, and Administration**

A. Members

The board shall consist of seven members appointed by the governor, subject to Senate confirmation, pursuant to R.S. 37:3373(A). The board shall consist at all times of at least two members who are recovering from a prior chemical dependency problem, however, a majority of the board shall be composed of individuals who are board certified substance abuse counselors or doctors certified by the American Society of Addiction Medicine.

B. Oath

Before taking office, each member of the board duly appointed by the governor shall subscribe before a notary public, and cause to be filed with the secretary of the board, an oath in substantially the following form:

"I HEREBY SOLEMNLY SWEAR AND AFFIRM that I accept the trust imposed on me as a member of the Louisiana State Board of Certification for Substance Abuse Counselors, and will perform the duties imposed on me as such by the laws of the state of Louisiana to the best of my ability and without partiality or favoritism to any constituency, group or interests which I may individually represent or with whom I may personally be associated."

C. By-Laws

The board shall adopt by-laws which shall govern the operation of the board.

D. Officers

The board shall elect a chairman, vice chairman, secretary-treasurer, and officer pro tem, pursuant to the by-laws.

E. Meetings

1. The board shall hold at least four regular meetings annually.
2. The chairman may call meetings by giving three days notice to all board members.
3. A majority of the members of the board may call meetings by giving 10 days notice to all board members.
4. Meetings shall be announced and conducted under the provisions of the Louisiana Open Meetings Law, R.S. 42:1 - R.S. 42:12.
5. A quorum of the board necessary to transact all business is a majority of its current membership.
6. *Robert's Rules of Order Revised* shall be the basis of parliamentary decisions except as otherwise provided by the by-laws or by resolution adopted by the board.

7. An agenda shall be prepared and submitted to each member of the board which includes the order of business, items required by law, and other matters approved by the chairman. The board may vote to amend the agenda during its meeting.

F. Minutes

1. The minutes of any board meeting are official only when certified by the secretary-treasurer and affixed with the original signature of the chairman. The chairman shall sign the minutes upon their being submitted by the secretary-treasurer at a meeting of the board and approved by action of the board.
2. The minutes of board meetings shall contain a record of all official business conducted by the board.
3. A draft copy of the minutes of each meeting shall be forwarded to each member of the board for review and comments or corrections prior to approval by the board.
4. The official minutes of the board meetings shall be kept in the office of the board and shall be available during regular office hours to any person desiring examination thereof.

G. Committees

1. The chairman, with the knowledge of or at the direction of the board, may establish committees deemed necessary to carry out the board responsibilities. Each committee shall have a designated committee chairman.
2. The structure and duties of committees shall be defined in the by-laws of the board.
3. Committees, when so directed by the board, shall prepare and publish policies and procedures to govern their functions. The board shall review and approve all policies and procedures.
4. The committee chairman shall make regular reports to the board either in writing or at regular meetings.
5. The committees shall meet when called by the committee chairman, the chairman of the board, or when so directed by the board.

H. Attendance

1. The attendance policy of the board is that members will attend regular and specially called board meetings, and committee meetings as scheduled.
2. The board may report to proper governmental agencies the attendance records of its members.

I. Employees

1. The board may employ persons at will necessary to carry out the duties and responsibilities of the LSBCSAC.
2. The board shall prepare policies and procedures to govern employment, titles, job descriptions, compensation, and other personnel matters. These policies and procedures shall be consistent with state civil service and Department of Health and Hospitals regulations.
3. The board may delegate authority and responsibility to employees.
4. The board retains ultimate authority and responsibility over all employees.

J. Transactions of Official Business

1. The board may transact official business only when in a legally constituted meeting with a quorum present.

2. The board shall not be bound in any way by any statement or action on the part of any board or staff member except when a statement or action is pursuant to the specific instructions of the board.

3. The by-laws, policies and procedures, resolutions, and other official actions when approved by motion duly made, seconded, and passed shall constitute the official business of the board.

K. Official Records

1. Official records of the board shall be maintained at the office of the board or other depository authorized by the board.

2. All official records of the board including application materials, except materials containing information considered confidential, shall be open for inspection during regular office hours.

3. Any person desiring to examine official records shall be required to properly identify himself and sign statements listing the records questioned and examined. Records which are stored in historical files or which have been authorized for off site storage may require a fee for research and location.

4. Official records shall not be taken from the board's office. Persons may obtain copies of records upon written request and by paying a fee prescribed by the board.

L. Discrimination Policy

The board shall make no decision in the discharge of its duty with regard to any persons' race, religion, color, sex, or national origin.

M. Policy on Handicapped Applicants

The board recognizes that handicapped applicants may encounter special problems in applying for certification and will make every effort, as required by law, to accommodate these applicants.

N. Certificate

1. The board shall prepare and provide to each certified counselor a certificate which lists the counselor's name, date of initial certification, and certification number.

2. Original certificates shall not be issued until the application has been evaluated and approved by official action of the board. The board may set the effective date and expiration date of the certificate at the time of approval.

3. Replacement certificates shall be issued when the required request has been received and fee paid. Replacement certificates shall contain the same information as the original certificate.

4. Official certificates shall be signed by the chairman, vice chairman, and secretary-treasurer, and be affixed with the official seal of the State of Louisiana. Certificates shall be signed by officers who are serving at the time the certificate is issued.

5. Currency of the certificate shall be documented by a wallet card issued by the board with the date of certification or renewal and the date of expiration.

O. Roster and Mailing Lists

1. Each year the board shall make available a roster of Board Certified Substance Abuse Counselors.

2. The roster shall include, but not be limited to, the name, address, and telephone number of each counselor. It is

the counselor's responsibility to keep the board informed of changes of address or other information.

3. The board shall make copies of the roster available to counselors, interested agencies, and the general public upon request and at a cost prescribed by the board.

4. The use of mailing lists may be obtained from the LSBCSAC by submitting the prescribed fee with a written request, including delivery instructions, to the office of the LSBCSAC.

5. Rosters and mailing lists are the property of the LSBCSAC and shall not be distributed nor used by any party other than that which initially obtained a copy.

P. Annual Schedule

The board shall set and publish an annual schedule of activities, including regular meeting dates, application deadlines, examination dates, and expiration dates.

Q. Notice and Receipt

1. Notices and communications are official when signed by a member of the board or other person so designated and mailed to the address of record.

2. The receipt of applications, forms, notices, and other communications by the board shall be determined by the date when received in the office of the LSBCSAC.

3. The board shall not be responsible for delay in delivery.

R. Waivers and Appeals

1. The board may consider waiver of a requirement over which it has authority for due cause. A request for such waiver shall be made in writing detailing justification for the request and the specific action desired, and shall be accompanied by the required fee.

2. The board may be requested to rule on the appeal of any decision made by its committees. A request for appeal of a committee decision shall be made in writing detailing the facts and the specific action desired, and shall be accompanied by the required fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1078 (December, 1989), amended LR 19:

§505. Advice and Consultation

The board shall seek the advice of the Louisiana Commission on Alcohol and Drug Abuse, in accordance with R.S. 46:2503(E), concerning establishing minimum educational and experiential requirements for persons seeking certification under the provisions of the act. The board shall also consult with the commission on matters pertaining to certification requirements and standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1079 (December, 1989), amended LR 19:

§507. Prohibited Activities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), repealed LR 19: §509. Penalties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), repealed LR 19:

§511. Confidentiality

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), repealed LR 19:

Chapter 7. Certification

§701. Requirements

A. Initial Certification

The board shall issue a certification as a Board Certified Substance Abuse Counselor (BCSAC) to each candidate who:

1. is at least 21 years of age and has earned a high school diploma or its equivalent;
2. is a citizen of the United States;
3. is not in violation of any ethical standards subscribed to by the board;

4. is not and has not been a abuser of alcohol or other drugs during the previous two years;

5. has not been convicted of a felony. However, the board in its discretion may waive this requirement upon review of the individuals's circumstances;

6. provides evidence of having earned educational credit sufficient to satisfy the requirements for counselor certification which include:

a. has successfully completed a minimum of 30 hours of substance abuse courses or their equivalent from an accredited and board approved institution of higher education. Equivalency may be met by a minimum of 15 semester hours and the remainder, up to 15 equivalent hours, granted by a board approved institution of higher education or other board approved educational program at the rate of 10 contact hours per one semester hour;

b. for candidates applying for certification on or after September 1, 1993, possesses a bachelor's degree from an accredited institution of higher education.

7. provides evidence of having successfully completed the experiential requirements for counselor certification which include:

a. one year of full-time employment in a board approved clinical training program or the equivalent thereof. Equivalence may be met by 2,000 clock hours of work on a part-time or volunteer basis in a board approved clinical training program;

b. the full-time duties or equivalent thereof were in the actual performance of the core functions with substance abuse clients;

c. the full-time duties or equivalent thereof were under the supervision of a qualified professional including direct supervisor in each of the 12 core functions.

8. demonstrates professional competency in substance abuse counseling by passing a written and oral examination prescribed by the board;

9. makes application and pays the fees prescribed by the board;

10. it is the candidate's responsibility to assure himself that his educational preparation has provided comprehensive coverage of the subjects and topics necessary to allow him to develop a sufficient knowledge base and to adequately prepare him to be able to demonstrate professional competency in substance abuse counseling;

11. it is the candidate's responsibility to assure himself that his clinical experience has provided comprehensive training sufficient to adequately prepare him to be able to demonstrate professional competency in substance abuse counseling;

12. credit received for practicum, internship, or other experiential education may be claimed for education or experience, but not both.

B. Certification by Transition from LASACT, Inc.

The board shall issue a certificate to any person who:

1. submits an application and pays the fees equivalent to those required for the initial application and examination;

2. meets the requirements in §701.A.1 through 7;

3. holds a valid and current certificate as a substance abuse counselor issued by the Louisiana Association of Substance Abuse Counselors and Trainers (LASACT), Inc.

C. Certification by Reciprocity from Other States

The board may issue a certificate, without examination in this state, to any person who:

1. submits an application and pays the fees equivalent to those required for the initial application and examination;

2. possesses a valid certificate to practice as a substance abuse counselor in any other state of the United States;

3. can satisfy the board that the certificate from the other state is based upon an examination and other requirements substantially equivalent to the requirements of §701.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1079 (December, 1989), amended LR 19:

§703. Application and Examination

A. Request for Application

1. Persons desiring information regarding certification as a Board Certified Substance Abuse Counselor shall be sent an information brochure and a request for application form.

2. The board will not evaluate an applicant's credentials without receiving a complete application package.

3. An application package shall be sent to any person who files a request for application form and pays the application fee set by the board.

4. An applicant shall have six months from the date issued to complete the application package and return it to the board. The application package shall expire one year from the date it is issued. Applicants with expired or void application packages must re-apply.

B. Required Application Materials

1. The application package shall contain forms for the

applicant to provide information and documentation of meeting the requirements for certification. Instructions for completing the forms and submitting the package shall also be included.

2. The application package shall accommodate the variations in requirements for initial certification, certification by transition from LASACT, Inc., certification by reciprocity from another state, or any other type of certifications authorized by law.

3. Each application package shall require the following:

a. specific information regarding personal data, employment and type of practice, any other state license and certification held, felony convictions, educational background including practicum experience, supervised experience, and references;

b. the applicant's permission for the board to seek any additional information or references it deems necessary to determine the applicant's qualifications;

c. a statement that the applicant, if issued a certification, shall return the certificate, current certification card, and any other designations granted by the board upon a revocation or suspension of the certification;

d. a statement that the applicant understands that fees submitted in the certification process are non-refundable;

e. the application signed by the applicant, dated, and notarized;

f. a recent full face wallet size photograph of the applicant affixed to the application with the imprint of the notary seal overlapping the photograph.

4. A supervisor's evaluation form shall be required. This evaluation is confidential and shall be mailed directly to the office of the LSBCSAC.

5. Three professional references shall be required. These references are confidential and shall be mailed directly to the office of the LSBCSAC.

6. An application will not be reviewed until the submitted application package is completed, i.e., all of the required information and forms are received by the board.

C. Acceptance of Application

1. Applications will be accepted if the complete application package meets the requirements for certification with the exception of passing the required examinations.

2. Should the package submitted not meet the requirements, the applicant will be notified of the deficiencies. Applicants may correct deficiencies by submitting an addendum to their application providing additional or corrected information.

3. The certification committee shall rule on any questions concerning applications for certification.

4. Upon notification that the application is acceptable, the applicant becomes a candidate for certification.

a. Candidates requiring examination are then eligible to request the written and oral examinations.

b. The applications of candidates not requiring examination are ready for evaluation by the board for approval and issue of certification and the candidates shall be so notified.

D. Examination

1. Candidates must request examination by submitting the required form, including a written case, selecting an examination date 30 days in advance, and paying the examination fee set by the board.

2. The board shall determine the scope and administration of the examination which shall consist of written and oral parts to provide the opportunity for the candidate to demonstrate competency in substance abuse counseling.

3. The board shall develop, publish, and make available for interested parties a bibliography and study guide for the examinations.

4. The board shall notify each candidate of the examination results within 60 days of the date of the examination.

a. If the notice of the examination results will be delayed for more than 60 days, the board shall notify the applicant before the sixtieth day.

b. Regardless of which numerical or other scoring system is used to arrive at examination results, the official notice of results to applicants shall be stated in terms of passed or failed.

5. The application of a candidate who fails to appear for an examination date selected or agreed to by the candidate for reasons other than documented illness or other causes beyond the candidate's control becomes void. The candidate must re-apply and pay all applicable fees.

6. The application of a candidate who fails both parts of the examination becomes void. The candidate must re-apply and pay all applicable fees.

7. A candidate who fails either part of the examination may:

a. continue in the process as long as his application is valid;

b. re-test the failed part of the examination by submitting the required form, including a written case for an oral re-test, selecting a new examination date 30 days in advance, and paying the examination fee set by the board.

8. If requested, by the candidate, the board shall furnish the candidate who fails any examination an evaluation of that candidate's test performance.

9. The applications of candidates who pass both parts of the examination are ready for evaluation by the board for approval and issue of certification and the candidates shall be so notified.

10. The certification committee shall rule on any questions concerning examination.

E. Approval and Issue

1. A candidate who has been notified that his application is ready for evaluation shall submit the certification fee prescribed by the board 10 days prior to the next regular meeting of the board.

2. Upon receipt of the certification fee, the board shall examine the application and recommendations from the certification committee. The board shall issue certification as a BCSAC to the candidate upon formal affirmative vote of the majority of the board present and voting provided there is a quorum present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1079 (December, 1989), amended LR 19: §705. **Renewal**

A. Every person certified under these rules and regulations shall renew his certificate every two years.

B. Notice

A renewal notice and renewal application forms shall be mailed to the address of record 30 days prior to expiration.

C. Issue of New Card

1. Upon receipt of the application for renewal, proof of the required continuing professional education, and the renewal fee, the board shall verify the accuracy of the application for renewal and issue a new wallet card with the date of renewal and the new expiration date.

2. Applications for renewal which do not satisfy the requirements will be deficient. The counselor will be notified and allowed to correct the deficiency. It is the counselor's responsibility to correct the deficiency prior to the expiration date of his certification.

3. The certification committee shall rule on any questions regarding application for renewal of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1080 (December, 1989), amended LR 19: §707. **Continuing Professional Education**

A. Within the two years prior to application for certification renewal, all board certified substance abuse counselors must have completed at least 48 clock hours of education directly applicable to substance abuse counseling.

B. Sources

1. The 48 hours of education must be in the form of workshops, seminars, courses, or other organized educational programs conducted by providers previously approved by the board. Semester credit hours may be converted to clock hours at the rate of 10 clock hours per one semester hour.

2. In-service training conducted by and for a counselor's own agency does not count towards this requirement. Education conducted by a counselor's own agency which has prior board approval shall be accepted.

3. A maximum of 12 hours of education equivalence may be requested for each year.

a. Service to the board is an education equivalent if the board issues a document to verify the service as such.

b. Delivery of a board approved educational program is an education equivalent if the trainer documents that the material was presented for the first time or from recently acquired updated sources.

C. Content

The continuing education for renewal of certification must come from at least three of the following:

1. techniques of screening, intake, orientation, and assessment of client/patient;

2. client education approaches for problems of chemical dependency;

3. treatment planning strategies and counseling skills;

4. chemical dependency counseling techniques including individual and group psychodynamics;

5. case management matrices, consultation methods, and the utilization of other professional/treatment services and referral systems;

6. chemical dependency crisis intervention skills;

7. awareness of special population needs in reference to substance abuse;

8. utilization of self-help groups and awareness of the twelve-step process;

9. basic pharmacologic knowledge and an understanding of the chemical dependency disease concept;

10. reporting and record keeping;

11. professional ethics of substance abuse counseling;

12. related medical and psychological disorders that may require referral.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1080 (December, 1989), amended LR 19: §709. **Inactive Certificate; Late Renewal; Reactivation**

A. Inactive Certificate
Certification becomes inactive immediately upon passing the expiration date.

B. Late Renewal
Applications for renewal of certification or any part thereof received after the expiration date are considered late and shall be subject to a late fee.

C. Reactivation Grace Period
A 90 day grace period shall be granted to reactivate certification without any lapse in continuity provided:

1. a satisfactory application for renewal is received within 90 days of the expiration date;

2. a late fee is paid in addition to the renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1080 (December, 1989), amended LR 19: §711. **Lapsed Certificate; Reinstatement; Surrender**

A. Lapsed Certificate
Certification is inactive and lapsed immediately upon passing 90 days after the expiration date. Lapsed certificates shall be surrendered to the board for non-payment of fees, or reinstated, upon meeting the reinstatement requirements.

B. Reinstatement
A lapsed certificate may be reinstated within one year of the expiration date provided:

1. a satisfactory application for renewal is received within one year of the expiration date with an explanation of the lapse and written request for reinstatement;

2. at least 60 clock hours of education are documented;

3. a reinstatement fee is paid in addition to the late and renewal fees;

4. the board grants the reinstatement by official action;

5. new issue and expiration dates are set by the board and the counselor's file is annotated to show the lapsed period.

C. Non-payment of Fees; Surrender of Certificate

1. A former board certified substance abuse counselor who does not renew his certificate shall surrender the certificate by returning it to the office of the LSBCSAC.

2. A former board certified substance abuse counselor who desires to exercise the option of the grace period to reactivate the certificate or to apply for reinstatement within one year may retain the certificate provided an acknowledgement is made in writing that the certificate is not valid during the period in which it is inactive or lapsed.

3. A lapsed certificate that has not been reinstated within one year of the expiration date is null and void. A new application package for certification must be submitted to the board to become certified by the board again.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

Chapter 9. Denial, Suspension, Revocation of Certification; Appeal

§901. Authority

The board shall have the power to deny, revoke, or suspend its certification of any person upon proof that such person:

1. has been convicted of any offense which constitutes a felony under the laws of this state, whether or not the conviction was in a court in this state;

2. is convicted of a felony or other serious crimes;

3. violates any provision of the ethical standards to which the board subscribes;

4. attempts to practice medicine, psychology, or social work without being licensed in such professions;

5. is impaired in delivery of professional services because of alcohol or drug abuse, or because of medical or psychiatric disability;

6. provides drugs or other restricted chemical substances to another person;

7. allows his certificate to be used by another person to illegally represent himself as a certified substance abuse counselor;

8. engages in sexual misconduct with a client or a family member of a client;

9. obtained certification by means of fraud, misrepresentation, or concealment of material facts;

10. has been found guilty of fraud or deceit in connection with services rendered;

11. has been grossly negligent in practice as a substance abuse counselor;

12. has violated any lawful order, rule, or regulation rendered or adopted by the board;

13. has violated any provision of the act or of these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§903. Denial of Certification

A. The board shall deny issue of certification to any

candidate against whom there is an unresolved complaint.

B. The board shall deny issue of certification to any applicant or candidate for certification who does not satisfy the requirements for certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§905. Suspension of Certification

A. The board shall suspend the certification of any BCSAC who voluntarily surrenders his certificate. The suspension shall be for a defined period of time or until specific conditions required by the board are satisfied.

B. The board shall suspend the certification of any BCSAC against whom there is a complaint containing allegations which reasonably suggests that a violation of the act or the rules and regulations of the board of a most serious nature may have occurred pending outcome of investigation and/or a formal hearing.

C. The board may seek suspension of certification through injunction and restraining order issued by a court of competent jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§907. Revocation of Certification

A. Any person whose certification is sought to be revoked in accordance with the provisions of these rules and regulations shall be given 30 days notice in writing enumerating the charges and specifying the date for a hearing before the board, conducted in accordance with applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

B. In connection with any hearing, the board may issue subpoenas, compel the attendance and testimony of witnesses, and administer oaths in the same manner as a district court in the parish wherein the hearing takes place.

C. A stenographic record of all proceedings before the board shall be made and a transcript kept on file with the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§909. Appeal

A. Any person aggrieved by a decision of the board revoking his certification may appeal the decision within 30 days to the district court for the parish wherein the hearing was held. In such a case of an appeal the board shall transmit to the district court a certified copy of the hearing record. The district court shall try the appeal de novo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

Chapter 11. Complaints

§1101. Complaint Procedure

The board shall develop policies and procedures to receive, review, investigate, and act upon complaints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§1103. Filing a Complaint

A. Any person desiring to report a complaint or alleged violation against a board certified substance abuse counselor or other person shall notify the LSBCSAC office. This initial contact notification of a complaint may be in person, by phone, or in writing. The person reporting the complaint or alleged violation may request a complaint form directly or may request that a member of the ethics committee contact him.

B. Upon receipt of a complaint notification, the ethics committee shall send an acknowledgement letter to the complainant and an official complaint form. The complainant must complete and return the official complaint form to the LSBCSAC office before any further action can be taken.

C. Upon receipt of an official complaint form, the ethics committee shall open a complaint file. The complaint shall be reviewed to determine if the allegations documented in the complaint constitute a violation of the act or rules and regulations of the board. If the allegations do not reasonably suggest that a violation occurred, the complainant will be so notified, the complaint forwarded to another agency if appropriate, and the file closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§1105. Investigation

A. If the allegations in the complaint reasonably suggest a violation of the act or rules and regulations of the board, the ethics committee shall initiate an investigation. The ethics committee shall notify the subject that a complaint has been filed and provide a copy of the official complaint form. The board certified substance abuse counselor or other person who is the subject of the complaint shall be required to provide a signed and notarized response within 15 days of being notified of the complaint.

B. The ethics committee shall determine the seriousness of the alleged violations. If of a less serious nature, the ethics committee shall endeavor to negotiate an agreement between the parties to satisfy the complaint. Any such agreement shall be put in writing and signed by both parties.

C. If the allegations are of a more serious nature, the ethics committee shall pursue investigation to obtain further information, corroborative statements or evidence, and/or associated facts concerning the alleged violation.

D. If the allegations are of a most serious nature, the ethics committee shall pursue investigation in a timely manner and may recommend suspension of certification or an immediate injunction and temporary restraining order pending outcome of the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§1107. Resolution

A. The board may hold an informal hearing to resolve any complaint.

B. A complaint not resolved by the ethics committee or by an informal hearing shall be referred to the board for formal action which may include dismissal of the complaint, issue of a written warning, censure, or an order for a formal hearing, pursuant to applicable provisions of the Administrative Procedures Act, R.S. 49:950 et seq., for suspension or revocation of certification.

C. Any voluntary surrender of certification shall be accompanied by agreement to satisfy all conditions set by the board.

D. The board may enter into a consent order with the subject of a complaint in lieu of decertification.

E. The ethics committee shall make quarterly reports on the status of each active complaint to the complainant, the subject, and the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

Chapter 13. Impaired Counselors

§1301. Program

The board shall develop policies and procedures for the operation of an impaired counselor program which shall include provision for the identification and rehabilitation of certificate holders whose quality of service is impaired or thought to be impaired due to mental or physical conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§1303. Identification

A. Any report of impairment shall be forwarded to the impaired counselor program for review and recommendation. The board shall investigate any counselor who holds a certificate issued by this board whose quality of service is impaired or thought to be impaired due to mental or physical conditions.

B. Should the board have reasonable cause to believe that a counselor's fitness and ability is affected by mental illness or deficiency, or physical illness, including but not limited to deterioration through the aging process and/or excessive use or abuse of drugs including alcohol, a thorough examination may be ordered.

C. The board may appoint or designate an examining committee of board certified substance abuse counselors, physicians, and/or other health care professionals to conduct a physical and/or mental examination, including requiring a urine drug screen, blood, breath, and other tests as deemed appropriate and allowed by law; and to otherwise inquire into

a counselor's fitness and ability to practice this profession with reasonable skill and safety to clients.

D. The order for examination shall be the counselor's opportunity to defend against the alleged impairment and prove fitness to practice this profession. Refusal to follow the order for examination or failure to keep an appointment for examination or tests without just cause shall be de facto evidence of impairment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§1305. Rehabilitation

A. The examining committee shall submit advisory reports and recommendations to the board. Priority shall be given to intervention, treatment, rehabilitation, and monitoring recommendations if impairment is suspected or confirmed.

B. Voluntary surrender of certification shall be accompanied by agreement to satisfy all conditions set by the board.

C. A formal hearing for revocation of certification shall be the last resort.

D. The board may enter into a consent order with an impaired counselor in lieu of decertification.

E. The impaired counselor program shall supervise treatment, rehabilitation, and monitoring activities as required by the board and/or specified in any consent order. Failure to abide by these requirements and/or specifications shall result in a formal hearing for revocation of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

Chapter 15. Code of Ethics

§1501. Professional Representation

A. A counselor shall not misrepresent any professional qualifications or associations.

B. A counselor shall not misrepresent any agency or organization by presenting it as having attributes which it does not possess.

C. A counselor shall not make claims about the efficacy of any service that go beyond those which the counselor would be willing to subject to professional scrutiny through publishing the results and claims in a professional journal.

D. A counselor shall not encourage or, within the counselor's power, allow a client to hold exaggerated ideas about the efficacy of services provided by the counselor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§1503. Relationships with Clients

A. A counselor shall make known to a prospective client the important aspects of the professional relationship including fees and arrangements for payment which might affect the client's decision to enter into the relationship.

B. A counselor shall inform the client of the purposes, goals, techniques, rules of procedure, and limitations that may affect the relationship at or before the time that the counseling relationship is entered.

C. A counselor shall provide counseling services only in the context of a professional relationship and not by means of newspaper or magazine articles, radio or television programs, mail or means of a similar nature.

D. No commission or rebate or any other form or remuneration shall be given or received by a counselor for the referral of clients for professional services.

E. A counselor shall not use relationships with clients to promote, for personal gain or the profit of an agency, commercial enterprises of any kind.

F. A counselor shall not, under normal circumstances, be involved in the counseling of family members, intimate friends, close associates, or others whose welfare might be jeopardized by such a dual relationship.

G. A counselor shall not, under normal circumstances, offer professional services to a person concurrently receiving counseling assistance from another professional except with knowledge of the other professional.

H. A counselor shall take reasonable personal action to inform responsible authorities and appropriate individuals in cases where a client's condition indicates a clear and imminent danger to the client or others.

I. In group counseling settings, the counselor shall take reasonable precautions to protect individuals from physical and/or emotional trauma resulting from interaction within the group.

J. A counselor shall not engage in activities that seek to meet the counselor's personal needs at the expense of a client.

K. A counselor shall not engage in sexual intimacies with any client.

L. A counselor shall terminate a professional relationship when it is reasonably clear that the client is not benefiting from it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§1505. Counselors and the Board

A. Irrespective of any training other than training in counseling which a person may have completed, or any other certification which a person may possess, or any other professional title or label which a person may claim, any person certified as a substance abuse counselor is bound by the provisions of the Substance Abuse Counselor Certification Act and the rules and regulations of the board in rendering counseling services.

B. A counselor shall have the responsibility of reporting alleged misrepresentations or violations of board rules to the board.

C. A counselor shall keep his/her board file updated by notifying the board of changes of address, telephone number and employment.

D. The board may ask any applicant or candidate for certification or recertification as a counselor or specialty

designation whose file contains negative references of substance abuse to come before the board for an interview before the certification or specialty designation process may proceed.

E. The board shall consider the failure of a counselor to respond to a request for information or other correspondence as unprofessional conduct and grounds for instituting disciplinary proceedings.

F. A counselor must participate in continuing professional education programs as required and set forth in these rules.

G. Applicants or candidates for certification or recertification as a counselor or for specialty designations shall not use current members of the board as references.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§1507. Advertising and Announcements

A. Information used by a counselor in any advertisement or announcement of services shall not contain information which is false, inaccurate, misleading, partial, out of context, or deceptive.

B. The board imposes no restrictions on advertising by a counselor with regard to the use of any medium, the counselor's personal appearance or the use of his personal voice, the size or duration of an advertisement, or the use of a trade name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§1509. Affirmation

A. Every BCSAC must agree to affirm:

1. that my primary goal is recovery for client and family;
2. that I have a total commitment to provide the highest quality care for those who seek my professional services;
3. that I shall evidence a genuine interest in all clients;
4. that I do hereby dedicate myself to the best interest of my clients, and to assisting my clients to help themselves;
5. that at all times I shall maintain an objective, nonpossessive, professional relationship with all clients;
6. that I will be willing to recognize when it is to the best interest of a client to release or refer him to another program or individual;
7. that I shall adhere to the rule of confidentiality of all records, material, and knowledge concerning the client;
8. that I shall not in any way discriminate between clients or professionals, based on race, creed, age, sex, handicaps, or personal attributes;
9. that I shall respect the rights and views of other counselors and professionals;
10. that I shall maintain respect for institutional policies and management functions within agencies and institutions, but will take the initiative toward improving such policies, if it will best serve the interest of the client;
11. that I have a commitment to assess my own personal strengths, limitations, biases, and effectiveness on a continuing

basis, that I shall continuously strive for self-improvement, that I have a personal responsibility for professional growth through further education and training;

12. that I have an individual responsibility for my own conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§1511. Confidentiality

A. No substance abuse counselor may disclose any information he may have acquired from persons consulting him in his professional capacity that was necessary to enable him to render services to those persons except:

1. with the written consent of the client, or in the case of death or disability, with the written consent of his personal representative, other person authorized to sue, or the beneficiary of any insurance policy on his life, health, or physical condition; or

2. when the person is a minor under the age of 18 and the information acquired by the substance abuse counselor indicated that the child was the victim or subject of a crime, then the substance abuse counselor may be required to testify fully in relation thereto upon any examination, trial, or other proceeding in which the commission of such crime is a subject of inquiry; or

3. when a communication reveals the contemplation of a crime or harmful act; or

4. when the person waives the privilege by bringing charges against the substance abuse counselor for breach of the privilege.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

Chapter 17. Registrations and Board Approved Programs

§1701. Counselor in Training

A. The board shall develop policies and procedures for the operation of a counselor in training program which shall include provisions for the following:

B. A person who is in the process of obtaining the education, training, and experience required to meet the requirement for certification may register with the board as a trainee. Trainee registration shall also be applicable for those persons desiring to become certified by this board after first becoming certified by the LASACT, Inc.

C. The designation of counselor in training, also known as CIT, shall be granted for a period beginning with approval of the request for CIT status and extending to the nearest renewal date one year after approval, provided:

1. a personal data form supplying required information on identification, place of employment, training institution, and qualified professional supervisor is completed satisfactorily;

2. the qualified professional supervisor is registered with the board or provides a written statement of credentials and

commitment to provide adequate supervision;

3. the training institution is registered with the board or provides a written statement of availability of suitable duties and satisfactory supervision both functionally and professionally;

4. a signed statement is supplied attesting to the registrant's intention to seek certification as a board certified substance abuse counselor. This statement shall also attest to the registrant accepting responsibility for all actions, holding the LSBCSAC harmless, and agreeing to comply with the requirements of the LSBCSAC;

5. the nominal fee for CIT registration is paid.

D. Registration as a counselor in training shall be renewed annually for a maximum of five additional years after the initial period of registration provided:

1. the renewal form is completed and submitted prior to expiration of the current registration;

2. the person continues to be in an appropriate training environment and under qualified professional supervision;

3. the nominal fee for annual renewal of CIT registration is paid;

4. there have been no unresolved complaints against the trainee.

E. Any person who chooses not to register as a counselor in training shall be responsible to provide documentation that the rules and regulations of the board have been complied with at the time of application for certification or at any other time that a question to the contrary may be raised by any person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§1703. Registered Counselor Supervisor

A. The board shall develop policies and procedures for a registered counselor supervisor program.

B. A person who meets the requirements of a qualified professional supervisor, as defined by these rules, may register with the board as a registered counselor supervisor, also known as an RCS.

C. The designation of registered counselor supervisor shall also be granted to those who:

1. hold a current valid certificate as a board certified substance abuse counselor, or license or certification as a credentialed professional recognized to treat substance abuse or provide substance abuse counseling services;

2. have a minimum of five years experience in substance abuse counseling or treatment, with at least two years in supervision or management;

3. have obtained at least 60 clock hours of education in supervision or management, with one semester credit hour being the equivalent of 10 clock hours.

D. The registered counselor supervisor designation is granted for a period beginning with approval of the request for RCS status and extending to the nearest renewal date one year after approval, provided:

1. a satisfactory application is received;

2. the individual signs a statement accepting the authority and responsibility of being a registered counselor supervisor,

agreeing to hold the LSBCSAC harmless, and agreeing to comply with the requirements of the LSBCSAC;

3. the fee for initial registration as a RCS is paid.

E. Registration as a registered counselor supervisor shall be renewed annually, provided:

1. a satisfactory renewal form is received prior to the expiration date of the current registration;

2. an annual report of activities as a RCS is filed;

3. the RCS renewal fee is paid;

4. there have been no unresolved complaints against the supervisor;

F. A registered counselor supervisor shall be authorized to perform the following duties:

1. supervise substance abuse counselors;

2. direct supervision of a counselor in training;

3. sign an applicant's experience documentation form;

4. sign an applicant's supervisor's evaluation form;

5. annual audit review of a board approved training institution;

6. annual audit review of a board approved educational program;

7. annual audit review of a board approved institution of higher education.

G. A qualified professional supervisor who chooses not to register with the board as a registered counselor supervisor shall be required to provide a statement of credentials and qualifications with each document which is presented to the board and at any time that a question as to supervision is raised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§1705. Approved Training Institution

A. The board shall develop policies and procedures for the operation of an approved training institution program.

B. Institutions which provide clinical treatment of substance abuse or offer substance abuse counseling services, have sufficient qualified clinical staff, and can offer supervised clinical positions as substance abuse counselor trainees may register with the board as an approved training institution, also known as ATI, offering clinical experience for persons wishing to apply to become candidates for board certification. An agency, corporation, organization, partnership, organized health care facility, or other autonomous organizational entity shall qualify as an institution for the purposes of this rule.

C. The designation of approved training institution is granted to the nearest renewal date one year after the request for ATI status is approved, provided:

1. a satisfactory application form is submitted;

2. the institution is licensed appropriately to provide substance abuse treatment or substance abuse counseling services;

3. the institution provides a statement signed by an authorized officer of the institution to document the institution's desire to provide clinical training in substance abuse counseling and acknowledgment of responsibility for such activities. This statement must contain acknowledgment

that the institution is independent of the LSBCSAC, that it will hold the LSBCSAC harmless, and that it will comply with the requirements of the LSBCSAC;

4. the institution provides statements documenting the appropriateness of their clinical treatment setting, the qualifications of its staff to provide daily clinical supervision and frequent direct supervision of trainees, and the planned duties and training program in which the trainees will be engaged. This statement must document that training, experience, and supervision in all 12 core functions will be provided;

5. the organization provides a summary statement of its continuous quality improvement program and agrees to maintain full records of that program;

6. the institution agrees to provide overall supervision of its program by a registered counselor supervisor or submit the credentials and qualifications of the qualified professional supervisor who will provide overall supervision;

7. the institution agrees to an annual audit review of its substance abuse counselor clinical training program and continuous quality improvement program by a registered counselor supervisor, and audit or review of its records at any time requested by the board;

8. the fee for initial ATI registration is paid.

D. Registration as an approved training institution shall be renewed annually, provided:

1. a satisfactory renewal form is received prior to the expiration date of the current registration;

2. the annual audit report of the institution's substance abuse counselor clinical training program and continuous quality improvement program signed by a registered counselor supervisor is filed;

3. the renewal of ATI registration fee is paid;

4. there have been no unresolved complaints against the institution.

E. An approved training institution shall be authorized to:

1. announce to the public and advertise the availability of its clinical training program;

2. employ counselors in training;

3. reasonably assure its trainees that their experience will meet board standards.

F. Persons submitting application for certification which list experience from institutions which are not registered as an ATI must document that the institution where the experience was obtained meets standards equivalent to those of this board. Equivalence may be demonstrated by:

1. the institution is approved as a substance abuse counselor clinical training institution by the certifying authority in the state where the institution is located;

2. the institution is approval as a substance abuse counselor clinical training institution by a certifying authority with which the board has a current agreement of reciprocity;

3. providing documentation of:

a. the appropriateness of the clinical treatment setting;

b. the qualifications of the staff to provide daily clinical supervision and frequent direct supervision of trainees;

c. the duties and training program in which trainees were engaged;

d. that training, experience, and supervision in all 12 core functions was provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§1707. Approved Educational Provider

A. The board shall develop policies and procedures for the operation of an approved educational provider program.

B. Organizations who desire to provide continuing professional education in substance abuse counseling may register with the board as an approved educational provider, also known as AEP. Each educational offering is a form of learning experience and shall be known as a course for the purposes of this rule whether it was offered for academic credit, as a workshop, seminar, conference, or in any other acceptable format. An individual, partnership, corporation, association, organized health care system, educational institution, governmental agency, or any other autonomous entity shall qualify as an organization for the purposes of this rule.

C. The designation of approved educational provider is granted to the nearest renewal date one year after the request for AEP status is approved, provided:

1. a satisfactory application form is received;

2. one person, who is qualified by virtue of education, training, and experience, as determined by the board, is identified as the supervisor of all educational programs to be offered;

3. the organization provides a statement, signed by an authorized officer of the organization, to document the organizations's desire to provide continuing professional education in substance abuse counseling and acknowledgment of responsibility for such activities. This statement must contain acknowledgment that the organization is independent of the LSBCSAC, that it will hold the LSBCSAC harmless, and that it will comply with the requirements of the LSBCSAC;

4. the organization agrees to provide a certificate of completion for each person satisfactorily completing each course which shall contain:

a. the name and trainee or certification number of the person completing the course;

b. the name and AEP number of the provider;

c. the title of the course, course number, name of the instructor(s), and date(s) of the course;

d. the number of clock hours of credit earned;

e. the signature of the organization's educational program supervisor or the instructor, or both.

5. the organization agrees to file a course report with the board within 10 days of completion for each course which shall contain:

a. the AEP number and course number of the provider;

b. the trainee or certification number and the clock hours earned for each person completing the course, or, the name and hours for persons not registered with or certified by this board;

- c. a sample of the certificate of completion;
- d. the required course filing fee.

6. the organization agrees to provide board approved credit only for courses which meet the educational standards of the board and which are taught by instructors who are qualified by virtue of education, training, and experience. The organization agrees to document this by maintaining a file for each course in its office which contains:

- a. the course description containing the educational objectives; course outline; instructional modalities; and relevance of the material, including relationship to the 12 core functions, theoretical content related to scientific knowledge of practicing in the field of substance abuse counseling, application of scientific knowledge in the field of substance abuse counseling, direct and/or indirect patient/client care, and which renewal education area or areas are addressed;

- b. the qualifications of instructors containing description of the education, training, and experience which prepared them to teach the course.

7. the organization provides a summary statement of its continuous quality improvement program and agrees to maintain full records of that program. This program shall include but not be limited to student evaluations of each course;

8. the organization agrees to notify the board and each person who completed a course in a timely fashion if it is determined that a course did not comply with the standards of the board for substance abuse counselor education. The organization shall also present its written policy on refunds and cancellation;

9. the organization agrees to an annual audit review of its education program, course files, and continuous quality improvement program by a registered counselor supervisor, and an audit or review of its records at any time by the board;

10. the initial AEP registration fee is paid.

D. Registration as an approved education provider shall be renewed annually, provided:

1. a satisfactory renewal form is received prior to the expiration date of the current registration;

2. the annual audit report of the organizations' education program, course files, and continuous quality improvement program signed by a registered counselor supervisor is filed;

3. the renewal of AEP registration fee is paid and the filing fee deposit is replenished;

4. there have been no unresolved complaints against the organization.

E. An approved education provider shall be authorized to:

1. announce to the public and advertise that its educational offerings meet the standards of the board;

2. issue certificates of completion which acknowledge board approval of the course.

F. An organization may be granted approval as a single course provider provided:

1. a satisfactory application form is received prior to offering the course;

2. the organization documents the course description including the educational objectives, course outline, instructional modalities, relationship of the material to the 12

core functions, and which renewal education area or areas are addressed;

3. the organization documents the qualifications of the instructors including description of the education, training, and experience which prepared them to teach the course;

4. the organization agrees to provide a certificate of completion containing the same information required of an AEP;

5. the organization agrees to file a course report in the same fashion as an AEP and to include student evaluations of that course;

6. the single course fee is paid and a filing fee deposit has been made.

G. An organization desiring single course provider status may:

1. announce to the public and advertise that the course meets the standards of the board only if approval has been granted. Prior to approval, the organization may state that board approval is pending only if application has been made. Otherwise, the organization is prohibited from making any statement regarding board approval of its course;

2. offer to provide a certificate of completion only after board approval has been granted and all required information is included on the certificate.

H. A trainee or counselor who wishes educational credit from a source which has not been approved by this board shall document that the provider of such education meets standards which are equivalent to those of this board. Equivalence may be demonstrated by:

1. the provider holding approval as a substance abuse education provider from the certifying authority in the state where the course was offered;

2. the provider holding approval as a substance abuse education provider from a certifying authority with which the board has a current agreement of reciprocity;

3. providing documentation of:

- a. the course description including the educational objectives, course outline, instructional modalities, relationship of the material to the 12 core functions, and which renewal education area or areas are addressed;

- b. the qualifications of instructors including description of the education, training, and experience which prepared them to teach the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§1709. Approved Institution of Higher Education

A. The board shall develop policies and procedures for the operation of an approved institution of higher education program.

B. Institutions which grant formal college credit for courses in substance abuse counseling, have sufficient qualified faculty, and can offer supervised clinical practicum or internship may register with the board as an approved institution of higher education, also known as AIHE.

C. The designation of approved institution of higher

education is granted to the nearest renewal date one year after the request for AIHE status is approved, provided:

1. a satisfactory application form is submitted;
2. the institution is an organized college or university accredited by a recognized regional accrediting body;
3. the institution provides a statement, signed by an authorized officer of the institution, to document the institution's desire to provide substance abuse counselor education and acknowledgment of responsibility for such activities. This statement must contain acknowledgment that the institution is independent of the LSBCSAC, that it will hold the LSBCSAC harmless, and that it will comply with the requirements of the LSBCSAC;
4. the institution provides a statement documenting the appropriateness of their curriculum, the qualifications of the faculty to teach such courses, and the policy on practicum and internship courses. This statement must document that education, training, experience, and supervision when appropriate in all 12 core functions will be provided;
5. the institution provides a summary statement of its continuous quality improvement program and agrees to maintain full records of that program;

6. the institution agrees to provide for ongoing consultation from a registered counselor supervisor or submit the credentials and qualifications of the qualified professional supervisor who will provide ongoing consultation relative to the quality and content of its substance abuse counselor curriculum;

7. the institution agrees to an annual audit review of its substance abuse counselor curriculum and continuous quality improvement program by a registered counselor supervisor, and an audit or review of its records at any time by the board;

8. the fee for initial AIHE registration is paid.

D. Registration as an approved institution of higher education shall be renewed annually, provided:

1. a satisfactory renewal form is received prior to the expiration date of the current registration;

2. the annual audit report of the institution's substance abuse counselor curriculum and continuous quality improvement program, signed by a registered counselor supervisor, is filed with the board;

3. the renewal of AIHE registration fee is paid;

4. there have been no unresolved complaints against the institution.

E. An approved institution of higher education shall be authorized to:

1. announce to the public and advertise the availability of its substance abuse counselor curriculum;

2. offer practicum or internship courses in substance abuse counseling for credit;

3. reasonably assure its students that their education will meet board standards.

F. Persons submitting application for certification which list education from institutions which are not registered as an AIHE shall document that the educational institution where the education was obtained meets standards equivalent to those of this board. Equivalence may be demonstrated by:

1. the institution holding approval as a higher education

provider of substance abuse counselor education from the certifying authority in the state where the institution is located;

2. the institution holding approval as a higher education provider of substance abuse counselor education from a certifying authority with which the board has a current agreement of reciprocity;

3. providing documentation of:

a. the institution being an organized college or university accredited by a recognized regional accrediting body;

b. the appropriateness of the curriculum;

c. the qualifications of the faculty to teach such courses;

d. the policy on practicum and internship courses;

e. that education, training, experience, and supervision when appropriate in all 12 core functions was provided.

G. Persons submitting application for certification which claim more than 15 semester hour equivalents must provide documentation demonstrating that a minimum of 15 semester hours of credit were not reasonably available from an AIHE. The board in its discretion may grant additional semester hour equivalents for cases of documented hardship at the rate of 10 clock hours of AEP education per 1 semester hour of AIHE credit provided a written request for waiver is submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

Chapter 19. Miscellaneous

§1901. Injunctive Relief; Penalties

A. The board may cause an injunction to be issued in any court of competent jurisdiction enjoining any person from violating the provision of these rules and regulations.

B. In a suit for an injunction, the board through its chairman, may demand of the defendant a penalty of not less than \$100 nor more than \$1,000, and attorney's fees besides the costs of court. The judgment for penalty, attorney's fees, and costs may be rendered in the same judgment in which the injunction is made absolute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§1903. Persons and Practices Not Affected

A. Nothing in these rules and regulations shall be construed as preventing or restricting the practice, services, or activities of any person licensed or certified in this state by any other law from engaging in the profession or occupation for which he is licensed or certified.

B. Nothing in these rules and regulations shall be construed as prohibiting other licensed professionals, including members of the clergy and Christian Science practitioners, from the delivery of medical, psychotherapeutic, counseling, social work, psychological, or educational services to substance abusers and their families.

C. Nothing in these rules and regulations shall be construed

as prohibiting the activities of any person employed or supervised by a qualified professional supervisor, while carrying out specific tasks under professional supervision. The supervisee shall not represent himself to the public as a substance abuse counselor.

D. Nothing in these rules and regulations shall be construed as prohibiting the activities of any student in an accredited educational institution while carrying out activities that are part of the prescribed course of study, provided such activities are supervised by a qualified professional supervisor. Such student shall hold himself out to the public only by clearly indicating his student status and the profession in which he is being trained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§1905. Prohibited Activities

No person shall hold himself out as a substance abuse counselor unless he has been certified as such under the provisions of the Substance Abuse Counselor Certification Act, R.S. 37:3371-84.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

§1907. Penalties

Whoever violates any provisions of the Substance Abuse counselor Certification Act, R.S. 37:3371-84, shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$100 nor more than \$500, or imprisonment for not more than 6 months, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:

Thomas C. Tucker, Ph.D.
Chairman

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Management and Finance

Health Services Provider Fees

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

Public Law 102-234, enacted on December 12, 1991, authorized states to adopt provider specific fees for medical services which include: Nursing Facility Services; Intermediate Care Facility Services for the Mentally Retarded

and Developmentally Disabled; and Pharmacy Services. This emergency rule is being adopted to enact state legislation authorizing the department to establish provider specific fees for the above listed services. Under this emergency rule, the following fees are being adopted effective for services provided on or after July 1, 1992.

Nursing Facility Bed Fee
\$10 per day, per bed in use

ICF-MR Facility Bed Fee
\$30 per day, per bed in use

Pharmacy Services Prescription Fee
\$.10 per prescription or refill

This emergency rule is being adopted to enhance federal funding and provide for financing of Medicaid health care services. This emergency rule is effective February 20, 1993, and will remain in effect for the maximum period allowed under R.S. 49:954(B) et seq.

This emergency rule was previously adopted under emergency rulemaking provisions of R.S. 49:953(B), effective July 1, 1992, and published in the *Louisiana Register*, Vol. 18, No. 7, pages 673-674 (July 20, 1992), and was readopted effective October 29, 1992, published in the *Louisiana Register* Vol. 18, No. 11, pages 1218-1219 (November 20, 1992).

EMERGENCY RULE

The provisions of R.S. 46:2601 through 2605 are hereby adopted and the following regulatory requirements for payment of fees are being promulgated as required under R.S. 46:2605(B)(1).

Nursing Facility Services

A bed fee shall be paid by each facility, licensed as a nursing home in accordance with R.S. 40:2009.3 et seq., for each bed utilized for the provision of care on a daily basis. The fee shall be \$10 per day, per bed utilized for provision of care. A bed shall be considered in use, regardless of physical occupancy, based on payment for nursing services available or provided to any individual or payer through formal or informal agreement. For example, a bed reserved and paid for during a temporary absence from a nursing facility shall be subject to the \$10 per day fee. Likewise, any bed or beds under contract to a hospice shall be subject to the fee for each day payment is made by the hospice. Contracts, agreements, or reservations whether formal or informal shall be subject to the \$10 per bed, per day fee only where payment is made for nursing services available or provided. Nursing homes subject to bed fees shall be required to provide documentation quarterly of utilization for all licensed beds in conjunction with payment of fees with reporting on a monthly basis in the form of a utilization report provided by the department.

ICF-MR Facility Services

A bed fee shall be paid by each facility, licensed as an intermediate care facility for the mentally retarded in accordance with R.S. 28:421 et seq., for each bed utilized for the provision of care on a daily basis. The fee shall be \$30

per day, per bed utilized for provision of care. A bed shall be considered in use, regardless of physical occupancy, based on payment for ICF-MR services available or provided to any individual or payer through formal or informal agreement. For example, a bed reserved and paid for during a temporary absence from a facility shall be subject to the \$30 per day fee. Likewise, any bed or beds under contract to a hospice shall be subject to the fee for each day payment is made by the hospice. Contracts, agreements, or reservations whether formal or informal shall be subject to the \$30 per bed, per day fee only where payment is made for nursing services available or provided. ICF-MR facilities subject to bed fees shall be required to provide documentation quarterly of utilization for all licensed beds in conjunction with payment of fees with reporting on a monthly basis in the form of a utilization report provided by the department.

Pharmacy Services

A prescription fee shall be paid by each pharmacy and dispensing physician for each out-patient prescription dispensed. The fee shall be \$.10 per prescription dispensed by a pharmacist or dispensing physician. Where a prescription is filled outside of Louisiana and not shipped or delivered in any form or manner to a patient in the state, no fee shall be imposed. However, out-of-state pharmacies or dispensing physicians dispense prescriptions which are shipped, mailed or delivered in any manner inside the state of Louisiana shall be subject to the \$.10 fee per prescription. Pharmacies and dispensing physicians subject to prescription fees shall be required to provide quarterly documentation of utilization for all medications dispensed with reporting on a monthly basis in the form of a utilization report provided by the department.

Transportation Services

The fee for transportation services authorized under R.S. 46:2605(A)(1)(f) shall be set at \$0.00 (zero) pending federal designation of transportation services as a medical provider grouping under P.L. 102-234. Medical transportation providers shall not be required to provide utilization data under this rule.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Community Care Program

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

Medicaid of Louisiana will implement a managed care program called Community Care in designated parishes of the state to provide improved access to health care for eligible

Medicaid beneficiaries, particularly those who reside in rural communities. The Community Care Program has been authorized under a freedom of choice waiver approved by the U. S. Department of Health and Human Services under Section 1915(b)(1) of the Social Security Act. The approval is for two years, and the waiver must be renewed prior to expiration of the two-year period. The goal of the Community Care Program is to improve the accessibility and the continuity and quality of care provided to Medicaid recipients in rural areas.

The Community Care Program will provide Medicaid recipients in the designated parishes with a Primary Care Physician (PCP), osteopath, or family doctor as the primary care provider for assigned beneficiaries. Beneficiaries will have the opportunity to select a participating doctor, Federally Qualified Health Center (FQHC), or rural health clinic to be their primary care provider in their parish of residence or in a contiguous parish. Beneficiaries are assigned a participating provider if they do not select one. The individual or family physician will provide basic primary care, referral and after-hours coverage services for each beneficiary. The fact that each beneficiary has a PCP allows continuity of care centered around a single physician (or organized group) as a care manager. Beneficiaries must remain with their selected or assigned PCP for at least six months before they may change to another PCP.

A full-time primary care physician or osteopath participating in the Community Care Program may serve up to a maximum of 1200 beneficiaries. A full-time certified physician assistant or full-time certified nurse practitioner under the supervision of a primary care physician may serve additional beneficiaries up to a maximum of 300 beneficiaries. A participating PCP is paid \$5 per beneficiary for total care management services, which is in addition to normal fee-for-service reimbursements.

The PCP as the care manager bears responsibility for the beneficiary's total health care, which includes providing preventive, maintenance and acute care; referring to specialists, when appropriate, for medically necessary diagnosis and treatment not provided in his/her practice; exchanging medical information about the beneficiary with specialists; admitting the beneficiary to the nearest appropriate hospital when necessary; and coordinating inpatient care and maintaining an integrated medical record of the care the patient receives. Only the PCP may authorize services for his/her assigned beneficiaries in appropriate settings according to medical necessity.

Twenty-four hour, seven day a week availability by telephone of primary care must be assured. The PCP may authorize coverage in his/her absence or in emergencies in accordance with Community Care policy. The PCP must also enroll and participate as a KIDMED medical, vision, and hearing screening provider. Routine preventive health care and age-appropriate immunizations must be provided to or arranged for children by the PCP.

The following Medicaid covered services do not require authorization and a written referral by the beneficiary's PCP: dental, pharmacy, family planning, skilled nursing facility care, transportation, ICF/MR services, ophthalmology,

targeted case management services, optometry and eyeglasses, EPSDT health services for disabled children, psychiatric hospital services, home and community-based waiver services, chiropractic services and mental health clinic services. Emergency services do not require authorization prior to the provision of the services. However, authorization must be obtained after the emergency services have been provided. All other Medicaid services, including obstetrical services, require prior authorization by the beneficiary's assigned PCP.

The following groups of Medicaid eligible recipients are required to enroll in the Community Care Program in the designated parishes: AFDC-related recipients and SSI-related, non-Medicare recipients. The following groups of eligibles are excluded from participation: residents of skilled nursing facilities, intermediate care facilities and mental hospitals, Medicare (Part A or B) recipients, medically needy, foster children or adoptive children, refugees, lock-in recipients, members of health management organizations (HMOs). Newborns or newly certified or Medicaid eligible recipients may not be enrolled for up to 30 days from the date of certification and any prior month of retroactive coverage (up to three months). Once enrolled in the Community Care Program, recipients are not re-enrolled at re-certification. All non-excluded recipients are required to have a Community Care provider.

All doctors of medicine or general osteopathy who are currently enrolled Medicaid providers in good standing, practice primary care and have offices in one of the designated or contiguous parishes, are eligible to participate in Community Care as primary care physicians (PCPs). However, they must meet all of the program requirements and agree to abide by the regulations. Primary care physicians enrolling in Community Care must meet all of the general Medicaid enrollment conditions. The physicians who may participate as PCPs are: general practitioner, family practitioner, pediatrician, gynecologist, internist, or obstetrician. Other physician specialists may be approved by the department under certain circumstances. The PCP must be licensed to practice medicine in Louisiana and must hold admitting privileges at a Medicaid enrolled hospital in the designated parish or contiguous parish.

Quality assurance/utilization review are integral components of the care management concept. Community care physicians are monitored for over and under utilization and quality assurance to assure patient access to quality health care and cost-effectiveness of the program. Providers who are out of compliance receive provider education, but continued non-compliance may result in disenrollment from the program.

EMERGENCY RULE

Medicaid of Louisiana will operate the Community Care Program under a waiver of freedom of choice under the authority of Section 1915(b)(1) of the Social Security Act. The Community Care Program will be administered in accordance with all regulations applicable to the program and the waiver request document approved by the U.S. Department of Health and Human Services.

Implementation of this rule is dependent on the approval of

the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this emergency rule and the current policy will remain in effect. Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this emergency rule. Copies of this emergency rule and all other Medicaid rules and regulations are available at the parish Medicaid offices for review by interested persons.

A public hearing on this proposed rule will be held in the Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA on Monday, March 29, 1993 at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Early, Periodic, Screening Diagnostic Testing and
Treatment (EPSDT) Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Administrative Procedure Act, R. S. 49:950 et seq.

The Omnibus Reconciliation Act of 1989 mandates that states provide preventive health screenings and medically necessary diagnostic screenings and treatment for conditions found in screenings according to prescribed time periods for the Title XIX (Medicaid) beneficiary population between the ages of four months through 20 years. In order to monitor and to verify the timely receipt of these services, the Bureau of Health Services Financing must receive claims documenting services rendered from providers in a timely manner. This is necessary for the proper administration of the KIDMED (EPSDT) Program. Therefore, the Bureau proposes to implement additional timely filing limits on KIDMED medical screening claims to insure adequate tracking of screening, diagnosis and treatment services in accordance with federal Early Periodic, Screening, Diagnosis and Treatment (EPSDT) regulations. An emergency rule on this matter was published in the January 20, 1993 issue of the *Louisiana Register*. This emergency rule is being redeclared effective February 25, 1993, for a maximum of 120 days, to define more precisely the conditions under which the 60 day timely filing requirement will apply.

EMERGENCY RULE

Medicaid of Louisiana shall require that KIDMED medical screening claims for Medicaid beneficiaries between the ages of four months and 20 years be received by Louisiana KIDMED within 60 calendar days of the date of service in order to be processed and the provider be reimbursed by Medicaid of Louisiana. Claims not received by Louisiana KIDMED within this time limit may be denied.

Implementation of this rule is dependent upon approval by the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this emergency rule and current policy will remain in effect. Interested persons may submit written comments to John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this proposed rule and providing information on a public hearing on this matter. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing. Copies of this proposed rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

J. Christopher Pilley
Secretary

the facility must be first obtained by the provider from the regional Office of Mental Retardation/Developmental Disabilities. When that office advises that such a bed is not being used to meet the need identified in the request, based on the facility serving a Medicaid recipient in the bed without prior approval from that office, approval of the bed shall be revoked. The *Policies and Procedures for Facility Need Review* is also revised to require the above referenced proposals be bound to the location as defined in the solicitation or request made by the department, rather than the site/location described in the application submitted.

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

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

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

**Facility Need Review
ICF/MR Approved Beds**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medicaid Program, for the maximum of 120 days, in accordance with the Administrative Procedure Act, R. S. 49:953(B)(1). There is no cost associated with the implementation of this emergency rule. In order to assure that individuals with special ICF-MR service needs receive appropriate placements, the Bureau of Health Services Financing is requiring that beds approved through a DHH request for proposal or solicitation meet the intended service needs of those beds.

EMERGENCY RULE

Effective February 15, 1993, the *Policies and Procedures for Facility Need Review* is revised to require that before any Medicaid recipient is admitted to an intermediate care facility for the mentally retarded for services in a bed approved for Title XIX reimbursement to meet a specific disability need identified in a request or solicitation for proposals issued by the department, prior approval of the person to be admitted to

DECLARATION OF EMERGENCY

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

Neurological Rehabilitation Treatment Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Medical Assistance Program, effective March 1, 1993, for a period of 60 days.

Currently in the Medicaid Program, nursing facility services for persons in need of a neurological rehabilitation treatment program are being provided out of state due to the lack of an established reimbursement mechanism for these patients. Under the current nursing facility reimbursement methodologies, there is no provision for the intensive services, specialized equipment and program of rehabilitative care required for these patients. In-state nursing facilities capable of providing such services to these patients are reluctant to accept them due to the adverse effect on their overall reimbursement. Therefore, in order to meet the needs of this patient group, Medicaid of Louisiana is implementing a new reimbursement methodology to be identified as NF-Neurological Rehabilitation Treatment Program. This

specialized reimbursement will address the need to provide treatment and care to this patient population in Louisiana. Medicaid of Louisiana has developed the medical criteria for the classification and reimbursement of this patient group needing a program of neurological rehabilitation. Thus the imminent peril to the health and welfare of these individuals due to non-availability of these services will be avoided.

This emergency rule is effective March 1, 1993, for the maximum period allowed under R.S. 49:954(B) et seq. It is estimated that due to this reimbursement change there will be no increased costs for these services and that there will be a decreased cost of approximately \$166,000 for the first year of implementation.

EMERGENCY RULE

Effective March 1, 1993, the Bureau of Health Services Financing shall implement a reimbursement methodology for a Nursing Facility-Neurological Rehabilitation Treatment Program. This program is developed to meet the needs of Louisiana citizens who are Medicaid eligible patients and require acute rehabilitation services for neurological injuries and/or conditions of recent onset. Rehabilitation services should be initiated within the acute care setting and should extend throughout the recovery process. For some persons with neurological insult the need for care, supervision and supportive services may be long term. The patients in this classification have a neurological condition while the NF-TDC patients have a respiratory condition which is life threatening.

The NF-Neurological Rehabilitation Treatment Program reimbursement shall be a prospective interim rate based on budgeted cost data without cost settlement. Subsequent rate adjustments may be made as warranted by on-site financial audits of the facility costs to establish future rates in accordance audit findings and the accuracy of the rate components utilized. The current components for nursing facility services will be utilized in this rate determination process. Annual audits will be required as well as the submittal of additional cost reporting documents as required by the department.

Medicaid of Louisiana has developed the medical criteria which must be met in order for a Title XIX patient to be classified for reimbursement under NF-Neurological Rehabilitation Treatment Program. This program incorporates two levels of patient care. These are the NF-Rehab Services for an injury or condition of recent onset and the NF-Complex Care for an injury or condition requiring transitional or long term care in a specialized setting capable of addressing cognitive, medical, technological and family needs. NF-Rehab Services provide intensive, comprehensive, and interdisciplinary services to persons with an injury or illness resulting in residual severe deficits and disability and/or need for aggressive medical support. SN-Rehab programs service needs are designed to reduce the client rehabilitation and medical while restoring the person to an optimal level of physical, cognitive, and behavioral function within the content of the person, family and community. NF-Complex Care services provide care for clients who present with a variety of medical/surgical concerns requiring a high skill level of nursing, medical, and/or rehabilitation interventions to

maintain medical/functional stability. These clients are essentially too medically complex or demanding for a typical skilled nursing setting but are no longer in need of the acute hospital setting.

Patients in need of NF-Rehab services shall meet the following requirements:

1. the client shall have a injury or condition that occurred or its initial onset was within one year from the date of admission. Clients served shall have severe functional limitations of recent onset, regression/progression, or clients who have not had prior exposure to rehabilitation.

2. the client shall have been determined, by a physician, to be responsive and appropriate for rehabilitation to recover lost function or appropriate for assessment for determination of functional recovery potential.

3. the client shall require two to four hours of rehabilitation therapy services, per day, as tolerable and appropriate, and a minimum of 5.5 hours of nursing care per day. Rehabilitation therapy services will be available and provided, as tolerable and appropriate, at least five days per week. Examples of patients to be considered include, but are not limited to:

- a. traumatic brain injury;
- b. cerebral vascular accidents with severe neurologic and neurobehavioral sequelae;
- c. spinal cord injury (cervical through thoracic);
- d. orthopaedic injuries usually associated with neurotrauma (multiple extremity and pelvic fractures, as well as severe contractures);
- e. complex paraplegics.

4. The client shall have complete neurological/medical/psychosocial assessment completed prior to admission by the facility which identifies:

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

5. the client shall have an assigned facility case manager to monitor and measure goal attainment and functional improvement. The facility case manager will be responsible for cost containment and appropriate utilization of services. The facility case manager will coordinate discharge planning activities with the department when it has been determined by the department that NF-Rehab services are no longer required or appropriate.

6. the client shall demonstrate progress toward the reduction of physical, cognitive, and/or behavioral deficits to maintain eligibility for NF-Rehabilitation funding.

Patients in need of NF-Complex Care services shall meet the following requirements:

1. the client shall have an injury or condition resulting in severe functional cognitive, physical and/or behavioral deficits and no longer requires nor can benefit from an active rehabilitation program.

2. the client shall require a minimum of 4.5 to 5.5 hours of nursing care per day. Clients shall receive the maximum amount of rehabilitation therapy services as appropriate and

tolerable as determined by a physician. Examples of patients and/or conditions to be considered include, but are not limited to:

- a. Persistent Vegetative State (PVS) brain injury patients;
 - b. parenteral antibiotic therapy;
 - c. spinal cord injury (stable).
3. The client shall have complete neurological/medical/psychosocial assessment completed prior to admission by the facility which identifies:
- a. history of current condition;
 - b. presenting problems and current needs;
 - c. preliminary plan of care including services to be rendered.

4. the client shall have an assigned facility case manager to monitor and measure goal attainment and functional improvement. The facility case manager will be responsible for cost containment and appropriate utilization of services. The facility case manager will coordinate discharge planning activities with the department when it has been determined by the department that NF-Complex Care services are no longer required or appropriate.

The facility seeking to provide services under this Neurological Rehabilitation Treatment Program must meet the following requirements:

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

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

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

4. the facility shall have formalized policies and procedures to insure that the interdisciplinary health and rehabilitation needs of every NF-Neurological Rehabilitation patient shall be under the supervision of a board certified primary care physician.

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

6. the facility shall have formalized policies and procedures to furnish necessary medical care in cases of emergency and provide 24 hour access to services in an acute care hospital.

7. the facility shall provide designated, continuous beds for persons requiring NF-Neurological Rehab an/or NF Complex Care services. The facility shall provide private rooms for

clients demonstrating medical and/or behavioral needs. Dedicated treatment space shall be provided for all treating disciplines including the availability of distraction-free individual treatment rooms/areas.

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

9. the facility shall provide appropriate methods and procedures for dispensing and administering medications and biologicals.

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

11. the facility shall provide dietary services to meet the comprehensive nutritional needs of the clients. These services shall be provided by a registered dietician for a minimum of two hours per month.

12. the facility shall provide client families and significant others the opportunity to participate in the coordination and facilitation of service delivery and personal treatment plan.

13. the facility shall provide non-medical transportation services and arrange for medical transportation services to meet the medical/social needs of the clients.

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

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

16. the facility shall provide appropriate consultation and services to meet the needs of the clients, including but not limited to audiology, driver education, orthotics, prosthetic, or any specialized services.

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

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

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

Interested persons may submit written comments to the

following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this emergency rule. Copies of this rule and all other Medicaid rules and regulations are available at parish Offices of Family Services for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Non-Emergency Medical Transportation Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is adopting the following emergency rule in the Medicaid Program in accordance with the Administrative Procedure Act, R.S. 49:953(B). This emergency rule is effective February 15, 1993 and will remain in effect for the maximum of 120 days.

Changes in the Transportation Program are being implemented in an effort to assure greater safety and easier access to covered medical services and more efficient utilization of non-emergency, non-ambulance medical transportation for the beneficiaries of Medicaid of Louisiana. It is projected that changes from this emergency rule will result in an approximate overall cost savings to Medicaid of Louisiana of \$261,623 in fiscal year 1992-93.

The changes contained in this emergency rule are intended to be in addition to and not instead of regulations currently governing the program. These current regulations also include the emergency rule published in the January 20, 1993 issue of the *Louisiana Register* and subsequently published as a notice of intent in this issue of the *Louisiana Register*. The major focus of this emergency rule is to change the reimbursement methodology for non-profit organizational providers. Currently non-profit providers are paid solely on per mile rate. Implementation of these provisions in conjunction with the above recent changes will result in an overall program cost savings through more effective management as the bureau will have greater opportunities to follow the current policy of authorizing transportation services based on the availability of the least expensive provider.

EMERGENCY RULE

Effective February 15, 1993 the following additional regulations will be implemented in the non-emergency medical transportation program for non-profit providers.

A. Enrollment Requirement:

A \$5000 performance bond, letter of credit or cashier's check payable to the Bureau of Health Services Financing is required for profit providers and not applicable to

organizations which meet state and federal qualifications for non-profit status.

B. Reimbursement Methodology:

All non-profit organizational providers will be reimbursed according to a dual methodology which includes a set amount for each person transported and a per mile rate. The provider is to be compensated a set "pick-up" fee for each person who is transported for a medical appointment regardless of the number of persons transported. In addition, the provider is to be reimbursed for all actual vehicle miles traveled transporting Medicaid beneficiaries to and from their medical appointments. Non-profit providers will be paid for all actual Title XIX miles traveled per trip, and not per beneficiary based on a per mile rate.

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

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

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

Department of Justice
Office of the Attorney General

Administration of Louisiana Open Housing Act

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 51:2610(A), as amended, which delegates the authority of administering the Louisiana Open Housing Act to the Louisiana Department of Justice, Office of the Attorney General, the attorney general hereby finds that an eminent danger to the public welfare exists and hereby adopts this emergency rule. The effective date of this emergency rule is January 26, 1993, and it shall remain in effect for 120 days or until it takes effect through the normal promulgation process, whichever is shortest.

The attorney general finds that the enactment of these emergency rules is necessary in order to avoid the loss of federal funds to aid and assist in the administration of the Louisiana Open Housing Act. The attorney general has been advised that the loss of these funds is eminent and accordingly it is necessary to enact these emergency rules in order to fully implement the Louisiana Open Housing Act and make it consistent with the federal Fair Housing Act.

Louisiana Open Housing Act

Emergency Rules of Procedure and Administration

A. In order for a program to qualify for an exemption under the Louisiana Open Housing Act, more particularly R.S. 51:2605(C) thereof, the attorney general or his designee must determine that a program is specifically designed and operated to assist elderly persons which determination must be consistent with the secretary of the Department of Housing and Urban Development under §807(b)(2) of the Federal Housing Act.

B. Any conciliation agreement arising out of conciliation efforts by the attorney general or his designee shall be made public unless the complainant and respondent otherwise agree and the attorney general or his designee determine that disclosure is not required to further the purposes of the Louisiana Open Housing Act.

C. Final administrative disposition of a complaint by the attorney general or his designee shall take place within one year of the date of receipt of a complaint, unless it is impractical to do so at which time the attorney general or his designee shall notify the complainant and respondent in writing for the reasons of the delay.

D. Any civil action filed by the attorney general or his designee requesting relief pursuant to R.S. 51:2614(A) shall be brought only against those respondents or persons charged pursuant to R.S. 51:2611 who have been served with a copy of the complaint in accordance with law and advised of their rights and obligations under the law and only after an opportunity to conciliate.

Richard P. Ieyoub
Attorney General

DECLARATION OF EMERGENCY

Economic Development and Gaming Corporation

Corporation Formation, Powers and Liability (LAC 42:IX.Chapters 9-13)

The Louisiana Economic Development and Gaming Corporation adopts these initial rules effective January 12, 1993, pursuant to R.S. 4:620(D), which states that "for purposes of expeditious implementation of the provisions of this Chapter, the promulgation of initial administrative rules shall constitute a matter of imminent peril to public health, safety and welfare as provided in R.S. 49:953 (B)." The corporation declares these articles of incorporation, by-laws and procurement code as initial emergency rules and regulations and therefore, the adoption of such is statutorily under §620(D) granted emergency status. The aforementioned rules and regulations are adopted for the maximum period of 120 days in accordance with R.S. 49:950(B)(2).

Title 42

LOUISIANA GAMING

Part IX. Casino Gambling

Subpart 2. Economic Development and Gaming Corporation

Chapter 9. Articles of Incorporation

§901. Statement of Authority

The Louisiana Legislature has expressed its desire to establish a casino in the state of Louisiana, and, to do so the Louisiana Legislature has adopted the Louisiana Economic Development and Gaming Corporation Act, Louisiana Revised Statutes 4:601 et. seq. (sometimes hereafter referred to as the act). In adopting the Louisiana Economic Development and Gaming Corporation Act, the Louisiana Legislature acknowledged that the operation of a casino is unique to state government and legislatively determined that the regulation of the casino should be undertaken by a separate, independent corporate entity and not an agency or political subdivision of the state of Louisiana. Consequently, pursuant to the Louisiana Economic Development and Gaming Corporation Act, the Louisiana Legislature created the Louisiana Economic Development and Gaming Corporation (the "corporation"), which is vested with broad powers to regulate the official gaming establishment casino and to oversee any and all games connected therewith. The Louisiana Economic Development and Gaming Corporation Act further detailed the governance and operation of the corporation by a board of directors (the "board") and a president (the "president") of the corporation. In accordance with the Louisiana Economic Development and Gaming Corporation Act, the board hereby adopts the following corporate articles setting forth certain matters appropriate to the operation of a corporation of the nature of the Louisiana Economic Development and Gaming Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§903. Formation and Continuation

A. Commencement of Existence

Pursuant to Section 611 of the Act, the existence of the corporation commenced on the date that a majority of the members of the board of directors of the corporation were confirmed by the Senate, which occurred on or about December 16, 1992.

B. Principal Business Office

1. Unless otherwise designated as provided in §903.C.1 the principal business office of the corporation (the "principal business office") shall be located at:

LOUISIANA ECONOMIC DEVELOPMENT AND
GAMING CORPORATION
ONE CANAL PLACE
365 CANAL STREET, SUITE 2700
NEW ORLEANS, LA 70130

2. The corporation may have such other offices within the state of Louisiana as the board deems necessary or appropriate. Notice of the location of the principal business office shall be provided to the Louisiana secretary of state and

the recorder of mortgages in East Baton Rouge and Orleans Parishes via the recordation of these corporate articles.

C. Change in Location of Principal Business Office

1. A change in the location of the principal business office may be authorized at any time by the board provided that the new principal business office shall be located in Orleans Parish, New Orleans, Louisiana. Within 30 days after a change of location is completed, notice of the change, and the post office address of the new principal business office, shall be filed with the Louisiana secretary of state and with the recorder of mortgages in East Baton Rouge and Orleans Parishes. If the principal business office is vacated by the corporation, a new principal business office shall be designated by the board, and notice of the change and of the post office address of the new office shall be filed with the secretary of state and with the recorder of mortgages of East Baton Rouge and Orleans Parish within 30 days of such designation. If the notice of change provided hereunder is not filed within that period, the New Orleans office of the attorney general shall thereafter be deemed to be the principal business office until the appropriate filing of a notice of a new principal business office with the secretary of state and with the recorder of mortgages of East Baton Rouge and Orleans Parish.

ATTORNEY GENERAL RICHARD IEYOUB'S OFFICE
ATTN: LOUISIANA ECONOMIC DEVELOPMENT
AND GAMING CORPORATION
234 LOYOLA, 7TH FLOOR
NEW ORLEANS, LA 70130

2. The principal business office shall be considered the domicile of the corporation for all purposes except for venue purposes as described in R.S. 4:606.

D. Duration

The corporation shall have perpetual existence, unless earlier dissolved in accordance with §909.A hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§905. Powers of the Corporation

A. Description of Powers

Subject to the limitations stated in the Louisiana Constitution, the act and general provisions of Louisiana law, the corporation shall have the power and authority to regulate the official gaming establishment and do all things related and in furtherance thereof. Without limiting the generality of the foregoing, the corporation shall have the following specific powers and authority:

1. in any legal manner to acquire, hold, use and alienate or encumber property of any kind;
2. in any legal manner to acquire, hold, vote and use, alienate and encumber, and to deal in and with shares, memberships or other interests in, or obligations of, other business, non-profit or foreign corporations, associations, partnerships, joint ventures, individuals or government entities (collectively an "entity");
3. to make contracts and guarantees, including guarantees of the obligations of other entities;
4. to incur liabilities, borrow money and secure any of

its past, present or future obligations by the pledge, pawn, mortgage, collateral mortgage, hypothecation or granting of a security interest of any kind of property, which security may be created by security documents which may include a confession of judgment and all other usual and customary Louisiana security document provisions;

5. enter into other obligations or evidences of indebtedness;

6. to lend money for its corporate purposes and invest and reinvest funds, and to take and hold, sell or exchange property or rights of any kind as security for loans or investments;

7. to elect or appoint officers and agents, to define their duties and fix their compensation;

8. to pay pensions and establish pension plans, pension trusts, profit sharing plans and other incentive and benefit plans for any or all of its directors, officers and employees;

9. enter into procurement including issuance of requests for proposals for contracts authorized by the act;

10. sue and be sued in its corporate name, and as a corporate entity;

11. adopt a corporate seal and a symbol;

12. hold copyrights, trademarks, and service marks and enforce its rights with respect thereto;

13. appoint agents upon which process may be served;

14. acquire immovable property and make improvements thereon, subject to the prior approval of the Joint Legislative Committee on the Budget;

15. make, solicit, and bid requests for proposals and offers for major procurement, in accordance with law or rules and regulations of the corporation including:

a. contracts for major procurement after competitive negotiation, bidding, or other procedure authorized pursuant to the Louisiana Procurement Code, or the corporation may adopt special rules and regulations pursuant to the provisions of this part providing for special procedures whereby the corporation may make any class of procurement including the authority to negotiate a reduced price. Such procedures shall be designed to allow the selection of proposals that provide the greatest long-term benefit to the state, the greatest integrity for the corporation, and the best service and products for the public. In its bidding and negotiation processes, the corporation may do its own bidding and procurement may utilize the services of the division of administration central purchasing agency or other set agency or division. The president of the corporation may with approval of the board declare an emergency for purchasing purposes; and

b. contracts to incur debt in its own name and enter into financing agreements with the state, its own agencies, or with a commercial bank, excluding the authority to issue bonds.

B. Powers of the Board

All of the corporate powers of the corporation shall, to the extent not specifically delegated to other persons, agencies or entities pursuant to the Louisiana Economic Development and Gaming Corporation Law, be vested in, and the business and affairs of the corporation shall be administered by, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: §907. **Indemnification and Limitation of Liability**

A. Right to Indemnification

If approved by majority vote of the board, each person who was or is a party, or is threatened to be made a party to, or is otherwise involved in, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "proceeding"), by reason of the fact that such person is or was a director, officer, employee or agent of the corporation, whether the basis of such proceeding is alleged to be as a result of such person's action or failure to act, may be indemnified and held harmless by the corporation against any and all expenses, attorneys' fees, liabilities, losses, judgments, fines and amounts paid or to be paid in settlement, which amounts are, in any case, actually and reasonably incurred; provided (all the following are met) that such person:

1. must have acted in compliance with the corporation's rules of conduct, as amended from time to time, and any other rules and regulations now or hereafter adopted by the corporation;
2. must have acted in good faith;
3. must have acted in a manner that he or she reasonably believed to be in, or not opposed to, the best interests of the corporation; and
4. in the case of an action or failure to act that may constitute criminal conduct, such person must not have been convicted or entered a plea of guilty, nolo contendere or similar plea with respect to such conduct.

B. Payment of Expenses in Advance

If authorized by vote of a majority of the board, the corporation may pay, in advance of final disposition of a proceeding, a director's, officer's, employee's or agent's reasonable expenses, including attorney's fees, incurred by such person in defending any such proceeding; provided, however, that the payment of such expenses in advance of the final disposition of such proceeding shall be made only upon delivery to the corporation of an undertaking, by or on behalf of such person, in which such person agrees to repay all amounts so advanced if it should be ultimately determined that such person is not entitled to be indemnified under this §907.

C. Applicability of Rights

The ability of the board to indemnify or to grant the reimbursement or advancement of expenses pursuant hereto is intended to be retroactive and shall be available with respect to events occurring prior to the adoption hereof. The rights granted hereunder shall continue to exist after the rescission or restrictive modification hereof with respect to events occurring prior thereto, and may be applied to acts or failures to act of officers, directors, employees and agents of the corporation committed or omitted during such person's tenure with the corporation despite the fact that such person no longer serves in such capacity.

D. Insurance

The corporation may maintain insurance at its expense to protect itself and any director, officer, employee or agent of the corporation against any expense, liability or loss incurred

by such person in connection with his or her service to the corporation.

E. Authority of the Board

The board shall make all determinations under this §907 relating to the payment or advance of any moneys and the standard of conduct necessary therefor. However, a director shall not vote on any decision or determination relating to his or her actions, failure to act or other matter under this §907. in which the director has an interest (all directors not so disqualified are hereinafter "disinterested directors"). If any person or persons are disqualified from voting hereunder, the quorum and voting requirements hereunder shall be based on the number of persons not disqualified from voting on such issues. The board may make the payment or advancement of any amounts hereunder subject to such terms and conditions as they deem appropriate.

F. Limitation of Liability

No director, officer, employee or agent of the corporation shall be personally liable to the corporation or otherwise for monetary damages for breach of fiduciary duty as a director, officer or employee, except for liability resulting from any of the following:

1. for breach of the director's, officer's, employee's or agent's duty of loyalty to the corporation;
2. for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
3. for any transaction from which the director, officer, employee or agent derived an improper personal benefit; or
4. for any action or failure to act that violates the rules of conduct of the corporation, as amended from time to time, and any other rules and regulations now or hereafter adopted by the corporation. The determination of whether a person has met the applicable standards of conduct under this §907.F shall be made by a vote of disinterested directors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§909. Miscellaneous

A. Dissolution

The corporation may be dissolved and the operations thereof wound up only upon vote of the Louisiana Legislature to so dissolve and wind up the corporation or to repeal the enabling legislation adopted by the Legislature relating to the corporation and regulation of a casino. Within 90 days of the date of the final adoption of any such legislation, the board shall appoint one or more liquidators, which liquidator or liquidators shall have all of the rights, powers, duties and authority of the officers of the corporation and the board, and the rights, powers, duties and authority of the officers and directors of the corporation shall cease, except the power and authority of the board to remove or replace any of the liquidators, and such other rights, powers, duties and authority as may be retained by the board or granted by law. In all other respects and except as otherwise provided by the legislature, the corporation shall be liquidated in the same manner and according to the same rules that govern the liquidation of Louisiana corporations (Louisiana Revised

Statutes 12:141 et seq.). In the event of dissolution or final liquidation of the corporation, the board shall, after paying or making provision for the payment of all the lawful debts and liabilities of the corporation, distribute all the assets of the corporation to the state of Louisiana or any successor corporation, commission, board or entity designated by the legislature.

B. No Instrumentality of the State; No Private Inurement

While, as stated in the statement of authority, the corporation is not an agency or political subdivision of the state of Louisiana, the corporation has been formed for a public purpose and shall not be deemed an instrumentality of the state of Louisiana except as otherwise specifically provided in the act or these articles. No part of the net earnings, gains or assets of the corporation shall inure to the benefit of or be distributable to its directors, officers, other private individuals or organizations organized and operated for a profit (except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes hereinabove stated).

C. Amendment

An amendment, modification, deletion or alteration (an "amendment") of these corporate articles, or any provision hereof, may be adopted by vote of at least six members of the board at a duly called regular or special meeting of the board; provided that, the text of the proposed amendment shall be submitted to the board at the regular meeting most recently preceding the regular meeting at which such amendment is to be considered. Any amendment so adopted by the board shall not become effective until adopted in accordance with LAC 42:IX.1109 of the corporation's by-laws and rules of procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

Chapter 11. By-laws and Rules of Procedure

§1101. Statement of Purpose

The Louisiana Economic Development and Gaming Corporation (the "corporation") was formed pursuant to Louisiana Revised Statutes 4:601 et. seq., which is entitled The Louisiana Economic Development and Gaming Corporation Act (hereafter referred to as the "act"). The act directed the corporation to adopt various rules and procedures governing various aspects of the operation of the corporation. To comply with this mandate, the board of directors of the corporation (hereafter referred to as the "board") has adopted these by-laws and rules of procedure (sometimes referred to as "rules of procedure" or "rules").

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1103. Directors

A. Number and Classes of Directors

All of the corporate powers of the corporation shall be vested in, and the business and affairs of the corporation shall be administered by the board which consists of nine members,

as more specifically set forth in the act. The governor shall appoint the chairman of the board and the board shall annually elect a vice-chairman and a secretary from among its members. The chairman shall conduct all meetings of the board, and, unless appointed to a committee of the board as a regular member, shall be an ex-officio, non-voting member of each committee of the board. The vice-chairman shall act in the absence of the chairman. The secretary shall give, or cause to be given, notice of all meetings of directors and committees thereof, immediately upon being directed by the persons responsible for providing notice, and all other notices required by law or by these by-laws, and in case of his or her absence or refusal or neglect to do so, any such notice may be given by the director, directors or officer upon whose request the meeting is called as provided in these by-laws. The secretary shall record or cause to be recorded all the proceedings of the meetings of the directors and committees thereof in a book or books to be kept for such purpose. The foregoing officers of the board shall also have such powers, duties, responsibilities and authority as is granted to them by resolution of the board.

B. Place of Meetings

Regular meetings of the directors may be held at any place within the state of Louisiana as the board may determine by vote of at least five members thereof. If the board does not vote upon, or at least five directors cannot agree upon, a place for any meeting, or if the notice of a meeting does not designate a location for such meeting, such meeting shall be at the corporation's principal business office located as stated in the corporation's corporate articles, as may be changed from time to time in accordance with the corporate articles.

C. Regular Meetings of the Board

Regular meetings of the board shall be held upon the call of chairman if the board by resolution adopts a specific day or days of each week or month, as applicable, for the regular meetings of the board. No notice of any such regularly scheduled meeting other than that required by Louisiana Revised Statutes 42:7 shall be required to be delivered to any member. Notice as required by Louisiana Revised Statutes 42:7 shall be given of all meetings of the board or any committee thereof by posting of a copy of the notice at the principal business office of the corporation and by mailing or telecopying a copy of the notice to any member of the news media who has requested notice of meetings. Attendance at any meeting without objection to the notice thereof prior to the conduct of the business of such meeting shall constitute a waiver of notice.

D. Special Meetings of the Board

Special meetings of the board may be called at any time by call of five or more of the members of the board or by the chairman subject to providing the notice required by Louisiana Revised Statutes 42:7(A)(2). Special meetings shall be held at the principal business office of the corporation unless otherwise agreed to by at least 6 members of the board. The effective date of any notice provided with respect to a special meeting of directors shall not be affected by the subsequent determination to hold a special meeting other than at the principal business office.

E. Reserved

F. Notice of Meetings

Notice of meetings of the board and committees thereof shall be given in accordance with R.S. 42:7.

G. Quorum, Proxies and Rules

At all meetings of the board, the presence of five of the directors in office and qualified to act shall constitute a quorum for the transaction of business, and the action of a majority of the voting power present at any meeting at which a quorum is present shall be the action of the board, unless the concurrence of a greater proportion is required for such action by law, the corporate articles or these by-laws and rules of procedure. If a quorum is not present at any meeting of directors, the directors present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present. A director may not attend a meeting of the board or any committee thereof by proxy. The board may adopt internal parliamentary procedures for the conduct of its meetings in accordance with the provisions of R.S. 49:951(6) which shall not constitute administrative rules of the corporation.

H. Resignation

The resignation of a director shall take effect upon the effective date of the delivery of a written resignation to the chairman or on any later date specified therein, but in no event more than 30 days after such receipt.

I. Vacancies

The office of a director shall become vacant if he or she dies, resigns or is removed in accordance with the act.

J. Reserved

K. Committees of the Board

The chairman may designate one or more committees, each committee to consist of the directors of the corporation as determined by the chairman (and one or more directors may be named alternate members to replace any absent or disqualified regular member of such committee) pursuant to the following provisions:

1. such committee or committees shall have such name or names as may be determined, from time to time, by the chairman. The president and chairman shall each be an ex-officio member of each committee of the chairman. Any vacancy occurring in any such committee shall be filled by the chairman;

2. The presence of a majority of the members of a committee at any meeting thereof shall constitute a quorum, and the business of a committee shall be transacted, and notice provided, in the same manner as set forth herein for the board.

L. Reliance on Reports and Records

A director shall, in the performance of his or her duties as a director or a member of a committee, be fully protected, and, if such conduct meets the requirements of the corporate articles, shall be entitled to indemnification under such corporate articles, if such director relies, in good faith, upon the records of the corporation or upon such information, opinions, reports or statements presented to the corporation, the board or any member or members of a committee thereof by the attorney general, by any of the corporation's officers, employees or agents, appraiser, engineer, or independent or certified public accountant selected by the board or any committee thereof with reasonable care, or by any other

person as to matters the director reasonably believes are within such other person's professional or expert competence and which person is selected by the board or any committee thereof with reasonable care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1105. Officers

A. Corporation President

The president of the corporation shall be appointed by the board subject to the approval of the governor. Should the governor refuse to approve the appointed of the president by the board, then the board shall submit another name. The person whose appointment was refused shall not be renamed for approval for a period of two years. The governor shall, within 30 days after the nomination of the president by the board, either approve or reject the nomination.

B. Powers and Duties of the President

The president of the corporation shall manage the affairs of the corporation and shall have such powers and duties as specified by the board of directors. The president shall not be a member of the board. The president of the corporation shall serve at the pleasure of the board which shall set the compensation of the president. The president of the corporation (the "president") shall manage the daily affairs of the corporation and shall serve as chief executive officer of the corporation, with general management of the corporation's business and power to make contracts in the ordinary course of business; shall appoint such officers as he or she deems appropriate, including, without limitation, a vice-president and a secretary-treasurer; shall see that all orders and resolutions of the board are carried into effect and direct the other officers and agents of the corporation in the performance of their duties; shall have the power to execute all authorized instruments; and shall generally perform all acts incident to the office of president, or which are authorized or specified by law or the board, or which are incumbent upon him or her under the provisions of the corporate articles or these by-laws and rules of procedure. The president shall serve at the pleasure and will of the board.

C. Vice President

The president shall employ a vice president and a secretary-treasurer with such duties as are assigned by the president. Such officers shall serve at the pleasure of the president. In the absence or disability of the president, the vice-president shall perform the president's duties and exercise his or her powers. The vice-president shall serve at the pleasure and will of the president.

D. Secretary-Treasurer

A secretary-treasurer of the corporation (the "secretary-treasurer") shall be appointed by the president and shall have custody of all funds, securities, evidences of indebtedness and other valuable documents of the corporation; shall receive and give, or cause to be received and given, all moneys paid to or by the corporation and receipts and acquittance for moneys paid into or for the account of the corporation; shall enter, or cause to be entered, in the books of the corporation to be kept for that purpose, full and

accurate accounts of all moneys received and paid out on account of the corporation, and, whenever required by the president or the board, he or she shall render a statement of his or her accounts; shall keep or cause to be kept such books as will show a true record of the expenses, gains, losses, assets and liabilities of the corporation; shall, in the absence of the secretary of the board, perform the duties and exercise the powers of the secretary; and shall perform all of the other duties incident to the office of secretary-treasurer as determined or directed by the president or the board. If required by the board or the president, the secretary-treasurer shall give the corporation a bond for the faithful discharge of his or her duties and for restoration to the corporation, upon termination of his or her tenure, of all property of the corporation under his or her control. The secretary-treasurer shall serve at the pleasure and will of the president.

E. Assistants

Assistants to the president, vice-president or secretary-treasurer may be appointed by the president or, with the approval of the president, by the officer under whom such assistant serves, and shall have such duties as may be delegated to them by the president or the officer under whom such assistant serves. Each assistant shall serve at the pleasure and will of the president.

F. Compensation

The compensation of the president shall be fixed by the board, and the compensation of all other officers shall be determined by the president, subject to the prior approval of the board.

G. Term of Office

Each officer of the corporation or assistant thereto shall, unless he or she resigns or is earlier terminated by the corporation, hold office until his or her successor is chosen and qualified in his or her stead. Any officer elected or appointed by the board or president may be removed at any time by the affirmative vote of the board or by action of the president, unless such power is specifically limited to action by the board (e.g., appointment of the president). If the office of any officer or assistant becomes vacant for any reason, the vacancy shall be promptly filled by the president. No vacancy need be filled if the board or the president determines that the office in which such vacancy occurs need not be filled; provided that the corporation shall maintain the offices of president, vice-president and secretary-treasurer.

H. Absence

In the case of the absence of any officer of the corporation or an assistant thereto, or for any other reason that the board or president may deem sufficient, the board or president may delegate any of the powers or duties of any officer or assistant to any other officer or employee of the corporation or designee of the board. For purposes of these by-laws, an officer not yet hired or retained shall be deemed absent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1107. Miscellaneous Provisions

A. Fiscal Year

The fiscal year of the corporation shall begin on July 1 and end on June 30 of each year.

B. Checks, Drafts, Notes, Etc.

All checks, drafts or other orders for the payment of money, and notes or other evidences of indebtedness, issued in the name of the corporation shall be signed by such officer or officers of the corporation and in such manner as shall be determined by the board, from time to time, or pursuant to any written forms or instructions filed at any financial institution that issues such checks, drafts or other orders for payment.

C. Registered Agent

The register agents of the corporation for service of process shall be the chairman and the attorney general or his designated assistant.

D. Notice

1. Whenever any notice is required by these by-laws and rules of procedure to be given, such notice is sufficient if given by:

- a. personal service (which notice shall be effective upon delivery); or
- b. telephone, telecopy, telefax or similar electronic communication; or
- c. delivery of such notice by registered or certified mail, return receipt required; or
- d. air freight, overnight delivery of which is recorded.

2. Any such notice shall be addressed to the person or entity receiving such notice at his, her or its last known address as it appears in the records of the corporation.

E. Waiver or Modification of Receipt of Notice

Whenever any notice of the time, place or purpose of any meeting of directors or a committee thereof is required by law, the corporate articles or these by-laws and rules of procedure, a waiver or modification thereof in writing, signed by the person or persons entitled to such notice and filed with the board secretary's records of such meeting, before or after the holding thereof, or actual attendance at the meeting of directors or committee thereof, is equivalent to the giving of such notice, except with respect to the notice required by Louisiana Revised Statutes 42:7.

F. Amendment

An amendment, modification, deletion or alteration (an "amendment") of these by-laws and rules of procedure, or any provision hereof, may be adopted by vote of at least six members of the board at a duly called regular or special meeting of the board. Any amendment so adopted by the board shall not become effective until adopted in accordance with §1109.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1109. Special Procedures for Promulgation of Rules, By-laws and Articles of Incorporation

A. Generally

In accordance with Louisiana Revised Statutes 4:620 and 659, the board has adopted and shall adhere to the following special procedures relating to the adoption and promulgation of rules, by-laws and articles of incorporation.

1. No less than five and no more than 30 days after the board intends to consider a rule, by-law or article of incorporation change or promulgation, the board shall cause to be published in the official journal of the state or the corporation, a notice of intent stating the general subject matters to be covered by its proposed rules, by-laws or articles of incorporation, and the date, time and place of the public meeting at which the proposed change or promulgation will be considered. The notice of intent shall also state that interested persons may appear at the meeting and make comments regarding the proposed rule, by-law or article.

2. Within 40 days of the public hearing and adoption of any such rule or regulation, as described in Subsection A.1 above, the board shall cause to be published in at least one of the publications listed in Subsection A.1 above, a notice of the adoption of such rules or by-law or article. The board may also publish the full text of the rules or regulation in the official journal of the state or the corporation.

3. Within seven days after publication of notice of adoption in the official journal of the state or the corporation, the president shall transmit a copy of any such rule or regulation, the published notice of intent, the notice of adoption and any comments received to the speaker of the House of Representatives, the president of the Senate, and the chairman of the House Committee on the Administration of Criminal Justice and the Senate Committee on Judiciary B.

4. Absent a legislative hearing and decision to reject such a rule or regulation as described in Louisiana Revised Statutes 4:659, the adopted rule, by-law or article of incorporation shall be effective 21 days after receipt of the proposed rules by the PRESIDING officers in accordance with R.S. 4:659 (B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1111. Special Procedures for Hearings on Alleged Violations of the Rules of Conduct

A. Hearings

1. The board or the ethics committee established by the board shall not impose any penalty for violation of the corporation rules of Conduct without a hearing and after reasonable notice informing such person or entity of:

- a. the date, time and place of such hearing;
- b. a reference to the specific rules of conduct such person or entity is alleged to have violated; and
- c. a short and plain statement of the matters asserted.

2. At such hearing, the person or entity subject to such hearing shall have the right:

- a. to be represented by counsel;
- b. to call and examine witnesses to the production of evidence;
- c. to introduce evidence and exhibits; and
- d. to cross-examine opposing witnesses.

3. However, no person against whom such a proceeding is instituted may require production of security or confidential records of the corporate corporation unless relevant to the alleged misconduct of the person for whom the hearing is held.

B. Determinations

After conclusion of a hearing held pursuant hereto, the board or the ethics committee, as the case may be shall begin deliberations on the evidence and then proceed to determine by majority vote whether there has been a violation of the rules of conduct, and, if so, what is an appropriate penalty for such violation. The findings of the board or the ethics committee may, but need not, be made public.

C. Record of Hearings

The board or the ethics committee, as the case may be, shall cause a record to be made of all hearings held pursuant hereto. Such record may, but need not, be made public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1113. Other Special Procedures for Hearings

A. Application

The procedures stated in this Section shall apply to an appeal by a casino gaming operator, gaming operator, distributor, licensee, permittee, under contractor, or applicant or other person or party of a corporation adjudication, decision or determination rendered in the act. For purposes of this Section, the term "appellant" shall mean a person adversely affected by a decision of the corporation or the board.

B. Appellant Request

Prior to initiating an appeal of the presidents or other officer's decision, order or adjudication an appellant must send the president a request letter stating the action of which the appellant seeks reconsideration or modification and all reasons the appellant advances for reconsideration or modification. The request letter must state the appellant's name and address, must enclose copies of all documents relevant to the request and must be signed by the appellant. The appellant must represent that all facts stated in the request letter are correct to the best knowledge of the appellant. The president shall respond to the request letter in writing within 10 days of the corporation's receipt of it, stating all reasons for the response.

C. Notice of Appeal

An appellant may appeal the president's denial of all or any part of the appellant's request stated in the appellant's request letter by sending the president a notice of appeal. The notice of appeal shall be effective only if it is in writing, states the substance and basis of the appeal, and is received by the corporation within 10 days of the appellant's receipt of the president's letter advising the appellant of the president's determination or decision. The notice may request that the hearing be expedited, provided that such a request shall constitute an undertaking by the appellant to pay the costs assessable under §1113.E. Upon receipt of a notice of appeal, the president shall deliver the notice, the appellant's request letter and the president's denial letter to the board. In the event a corporation president has not been selected, the appellant shall make his or her appeal directly to the board in the same manner as prescribed in §1113.B, including the filing of a request letter with the board.

D. Hearing

The board shall consider the appeal within 30 days of receipt of the notice of appeal. The chairman may call a special meeting of the board to hear an appeal if the appellant

has requested an expedited hearing and the chairman in his sole discretion believes that the appeal warrants an expedited hearing. The president shall give the appellant reasonable notice of the time and location of the board meeting. The appellant shall be permitted to present the appeal orally for a time period determined by the board, committee or hearing officer. The presentation may not include points or subjects which were not included in the appellant's request letter. The corporation shall keep a complete record of the hearing and shall make it available to the appellant. A committee or a board appointed independent hearing officer may make recommendations in writing with supporting reasons to the board for its final action. The board shall render its decision on the appeal by majority vote at the hearing of the appeal.

E. Costs

If the appellant requested an expedited hearing, and the board conducts the expected hearing at a special meeting called for that purpose and the board denies the appeal, the board may then charge the appellant the corporation's reasonable costs incurred in connection with the special meeting and hearing, including any travel and per diem expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

Chapter 13. Procurement Policies and Rules

§1301. Policy Statement

In accordance with the act and particularly with R.S. 4:620, 621 and 623 the board of directors of the Louisiana Economic Development and Gaming Corporation adopts these policies and rules in order to assure public confidence in the procedures followed by the corporation in procuring the items, products and services necessary to conduct its business and operations as authorized by the act. Public confidence depends on the corporation developing and maintaining procurement procedures that: are subject to the highest ethical standards; promote the acquisition of high quality goods and services at competitive prices; promote administrative efficiency; recognize that the regulation of a casino is a unique activity; and afford fair treatment of all persons offering their products and services to the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1303. General

A. Definitions

The following terms shall have the following meanings when used in these policies and rules unless the context clearly indicates otherwise:

Act or The Act—the "Louisiana Economic Development and Gaming Corporation act" or the provisions of Louisiana Revised Statutes 4:601 et. seq.

Authorized Officers—the president, the vice president, the secretary-treasurer, the procurement officer and all persons designated as division heads in the corporation's organizational structure from time to time.

Board—the board of directors of the corporation as established and existing pursuant to the act.

Business—any corporation, partnership, individual, joint stock association, sole proprietorship, joint venture, business association, cooperative association, professional corporation or any other legal entity through which business is conducted.

Contractor—any vendor, entity or business with which the corporation has entered into a procurement contract.

Director—a member of the board.

Louisiana Laws—all provisions of the statutes in the Constitution of the State of Louisiana and all statutes, codes, rules and regulations.

Major Procurement—shall have the same meaning ascribed to such term in §605(23) of the act.

Minor Procurement—shall have the same meaning ascribed to such term in §605(24) of the act.

Person—any business, individual, union, committee, club, firm, corporation or other organization or group of individuals.

Procurement—the acquisition by the corporation of any goods or services in return for a cash payment or the promise thereof. The term shall not include:

- a. acquisitions from an agency or political subdivision of the state of Louisiana;
- b. employment contracts with individuals;
- c. financing; or
- d. contracts for goods or services provided as part of, or related to, a lease of immovable property.

Procurement Agent—the officer of the corporation appointed by the president, or the board in the absence of the president, to manage and supervise procurement from time to time.

Procurement Authorization Form—the document prepared by the corporation pursuant these procurement rules by which a procurement is authorized.

Request for Proposals or RFP—the document prepared and issued by the corporation pursuant to §1305.B of these policies and rules.

Special Circumstances—the circumstances meeting the requirement of or described in §1305.J of these procurement rules.

Special Procurement—an emergency or special procurement authorized in §1305.J of these policies and rules.

B. Authority of the Corporation

These procurement rules are adopted pursuant to the power granted the corporation under the act. These procurement rules are supplemental to and may be utilized in substitution of all Louisiana laws relating to procurement. These policies and rules when utilized shall, pursuant to the Louisiana Economic Development and Gaming Corporation Act, render Louisiana laws on procurement inapplicable to the corporation. Additionally, these policies and rules shall be deemed to incorporate any adopted or promulgated corporation rules of conduct, the Louisiana Code of Governmental Ethics and the act and no procurement rule, policy or practice of the corporation under these special procedures shall be construed to allow any procurement by the corporation which would otherwise be prohibited by the act, the corporation rules of conduct, or the Louisiana Code of Governmental Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1305. Major Procurement Procedures

A. Applicability of Section

The provisions of this Section shall apply to all major procurement.

B. Initiation of Procurement

The corporation shall initiate a major procurement by preparation of a "procurement authorization form" which authorized the procurement. The procurement authorization form shall to the extent possible clearly state the goods or services to be procured, the corporation's need for the goods or services, an estimate of the anticipated range of cost of the procurement and a listing of potential contractors. The listing of potential contractors shall include all businesses on the list of interested contractors as provided in these rules and who are known to the corporation as being in the business of supplying the desired goods or services and any business from whom a response to the corporation's request for proposals would, in the opinion of the procurement agent, enhance the competition among businesses for the procurement contract. The board may by resolution authorize and designate a person or persons to sign procurement authorizations.

C. Preparation of Request for Proposals

Upon execution of a procurement authorization, the corporation shall prepare a request for proposals which shall include, at a minimum, the following information:

1. specifications of the goods or services required by the corporation, prepared in such a manner as to promote comparability of responses by potential contractors;
2. a requirement that all responding proposals be in writing and the time by and place at which all responding potential contractors should submit proposals; and
3. a listing of the criteria the corporation will use in evaluating proposals by responding potential contractors and the relative weight the corporation will give the respective criteria.

D. Dissemination of RFP

The corporation shall give public notice of the RFP by advertising its issuance in the official journal of the state or the corporation. The advertisement shall appear at least 20 days before the last day that the corporation will accept proposals by potential contractors unless a shorter period is authorized by the board. The advertisement shall generally specify the goods or services required by the corporation, the last date that the corporation will accept proposals and an address at which a copy of the RFP can be obtained. The corporation may advertise the issuance of a RFP in trade journals which serve the interests of businesses likely to respond to the RFP. Additionally, the corporation shall mail or make available a copy of the RFP to potential contractors who have requested in writing to be notified of major procurement for acquisition of specific products or services in accordance with these procurement rules.

E. Cancellation or Amendment of RFP

The corporation may cancel or amend any outstanding RFP by written notice to all businesses to which the RFP was sent or given. The reasons for cancellation or amendment of an RFP shall be stated in the notice sent by the corporation. The

corporation shall deliver a copy of the notice and reasons to the directors.

F. Acceptance and Evaluation of Proposals

1. The corporation shall consider and evaluate all proposals responding to the RFP which are submitted in compliance with the deadline and other requirements stated in the RFP. The Corporation may waive any deficiency or non-conformity of a proposal or provide the responding business a reasonable period of time to cure the deficiency or non-conformity, provided that the board determines such action does not prejudice the status of other proposals. At any time prior to completion of the evaluation process, the corporation may request any responding potential contractors to clarify or expand upon provisions of their proposals. The corporation shall evaluate proposals in a manner consistent with the RFP. The procurement contract shall be awarded in the corporation's sole and uncontrolled discretion.

2. The RFP may allow potential contractors or bidders to submit written requests for clarification and the procurement agent or the board may conduct one or more bidder conferences which shall be open to all potential bidders or contractors. All potential bidders who have requested clarification or notice thereof shall be transmitted all clarification information.

G. Acceptance of RFP Terms and Criteria; Objections to RFP

The submission of a proposal for a major, emergency or minor procurement, without prior written objection to the form, criteria or content of the RFP shall constitute a waiver of any objection thereto. Such a submission shall also constitute and be an express agreement to be bound by the form, specification, evaluation criteria and content of the RFP as well as the decision of the corporation in awarding the procurement.

H. Preparation of Contract

Upon completion of the evaluation and mutual acceptance of all terms of the proposal by the corporation and the contractor, the corporation shall prepare the contract. The contract shall unless specifically otherwise authorized by the board contain, at a minimum, the following:

- a. the name and address of the contractor;
- b. the goods to be delivered or the services to be performed under the contract;
- c. the term of the contract and a statement giving the corporation the right to terminate the contract unilaterally upon 90 days written notice;
- d. a provision giving the corporation the right to audit those financial records of the contractor which relate to the contract;
- e. a provision that the contractor shall not transfer any interest in the contract without the prior written consent of the corporation (except that claims for money due or to become due to the contractor from the corporation under the contract may be assigned to a bank, trust company or other financial institution but that the corporation shall not be bound by the assignment unless furnished timely and sufficient notice of it);
- f. a provision that the contractor shall bear responsibility for paying any taxes which become due as a result of payments to the contractor under the contract;

g. a provision that upon termination of the contract all records, reports, worksheets or any other materials related to the contract may at the discretion of the corporation become the property of the corporation;

h. a provision obligating the contractor to provide the corporation with notice of any material adverse change in its condition, financial or otherwise;

i. a provision requiring the payment of liquidated damages to the corporation upon a material breach of the contract by the contractor; and

j. a provision that Louisiana laws will govern the contract.

I. Authorization and Execution of Contract

The corporation shall not execute a contract for a major procurement unless the board reviews and approves the contract. The board may authorize execution of the contract in a form substantially similar to the form presented to the board for review or approval.

J. Preservation of Integrity of Procurement

In order to preserve the honesty, fairness and competitiveness of the procurement process, the following restrictions on dissemination of information shall apply, and non-compliance with any of them shall constitute a violation of the rules of conduct of the corporation:

1. prior to board consideration of final proposal, directors, officers and employees of the corporation shall not disclose or discuss with any person not employed by the corporation or its consultants, the contents of a proposal or a communication, regarding a proposal, to or with, a potential contractor unless otherwise authorized by the board;

2. directors, officers and employees of the corporation shall not disclose to any potential contractor any information proprietary to the corporation and pertinent to the procurement for which the potential contractor may submit a proposal.

K. Emergency or Special Procurement

1. Notwithstanding any other provision of these policies and rules to the contrary, the corporation may make any class of procurement, including major procurement, without complying strictly with the procedures stated in this Section if, to the best of the board's knowledge, any of the following special or emergency circumstances then exist and these circumstances do not reasonably allow compliance with the procurement procedures otherwise required by this Chapter:

a. a threat to public health, welfare or safety or the integrity or operation of the corporation;

b. a unique, non-recurring opportunity to obtain goods or services at a substantial cost savings;

c. a sponsorship arrangement permitting the corporation to acquire goods or services at a reduced cost or cost-free;

d. the structure of the applicable market does not permit the corporation to procure the goods or services via a competitive bidding process;

e. the goods or services which meet the corporation's reasonable requirements can be provided only by a single business;

f. due to time constraints not caused by the corporation, compliance with each of the policies and rules

stated in this Section would materially impair the financial performance of the corporation; or

g. the corporation can not commence initial operation without the required goods or services specifically including, but not limited to initial and temporary office space, office equipment, telecommunications and duplication services, insurance coverage including liability insurance and health insurance, office supplies, banking and financial services, office assistance, consulting services, security services, clerical services, and data processing.

2. An emergency or special procurement shall be made only after the board, president, or procurement agent determines the existence of any of the emergency special circumstances and states the reasons for the determination in a report delivered to the board. It must be made in compliance with as many of the requirements of this Section as practicable under the circumstances as determined by the board or the president. The board may, by affirmative action prior to the completion of the emergency and special procurement, reverse the president's determination and direct the corporation not to make the emergency or special procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1307. Minor Procurement Procedures

A. Applicability of Section

The provisions of this Section shall apply to all minor procurement.

B. Supervision by Procurement Officer

The president, procurement agent or other person designated by the board shall supervise, manage and bear responsibility for all minor procurement. The procurement agent or designated person shall establish written procedures for making competitive minor procurement to the maximum degree possible and will assure the corporations's compliance with these procedures. At the board's request, the procurement officer or designated person shall offer these procedures to the board for review, and the board may modify these procedures in its discretion.

C. Minimum Requirements of Procedures

Procedures established by the procurement officer or person designated by the board pursuant to this Section shall, at a minimum, require:

1. that no minor procurement shall be structured as such in order to avoid the policies and rules applicable to procurement stated in §1305;

2. that, in instances where a sole source contractor is used, it shall be fully justified in writing prior to the procurement and retained as part of the file. This requirement will not apply to procurement made under this Section against a standing order contract that was entered into on a competitive basis;

3. that all disbursements by the corporation for minor procurement be by check signed by two authorized or designated persons;

4. that the corporation reasonably justify no changes the need for the minor procurement; and

5. the corporation undertake reasonable steps, considering the size of the minor procurement, to obtain high quality goods or services at competitive costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1309. Miscellaneous Provisions

A. Appeals

Appeals of any action of the corporation or its officers, employees, agents or board under these policies and rules shall be made in accordance with the by-laws of the corporation.

B. Amendment

These policies and rules may be amended according to the by-laws and rules of procedure of the corporation.

C. List of Potential Contractors or Vendors

The corporation shall provide a procedure whereby potential contractors or vendors may, in writing, request that they be placed on a list of possible vendors or contractors for particular of specified goods or services which may be the subject of corporation procurement. The board may, by resolution, set a reasonable fee for inclusion on a list of potential contractors or vendors and may charge a fee for delivery of copies of major, emergency or special RFP's. The board may provide for a procedure for removal of a business or person from the list of potential contractors or vendors.

D. Term of Procurement

A minor procurement contract shall not obligate the corporation for an initial term in excess of one year without the approval of the board. A contract may contain optional periods for extensions of the contract by the corporation, provided that any individual option period or extension shall not exceed one year in duration, and any individual option period or extension may become effective only upon the specific, affirmative exercise of the option or the specific, affirmative agreement to the extension, by the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

Max Chastain
Chairman

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Office of the Secretary**

**Compulsory Liability Security
Removal and Destruction of License Plate**

The Department of Public Safety and Corrections is adopting the following emergency rule providing for the removal and destruction of license plates when a person is unable to provide proof of compulsory liability security, under the emergency provision of Administrative Procedure Act,

R.S. 49:953(B) and Act 805 of the 1992 Regular Session of the Louisiana Legislature to implement this act as soon as possible and minimize danger to public and private property by reducing the number of uninsured motor vehicles on the highway.

This emergency rule is to remain in effect for the maximum period of 120 days allowed under R.S. 49:954(B) et seq.

EMERGENCY RULE

Effective February 1, 1993, the following rules shall apply to the administration of Act 805 of the 1992 Regular Session of the Louisiana Legislature as it provides for the enforcement of said act including but not limited to the removal and destruction of license plates, issuance of tickets for violation of R.S. 32:863.1, issuance of stickers and other documentation necessary to implement this act and the reinstatement of license plate and registration including charging of fees.

When an operator of a motor vehicle registered in Louisiana is unable to provide proof of compulsory motor vehicle liability security, the operator shall be issued a notice of violation of R.S. 32:863.1 that will provide at a minimum the operator's name, the registered owner's name, the vehicle identification number, the license plate number and any other information available which will assist in identifying the record owner of the motor vehicle. The notice shall notify the operator of the nature of the offense and the procedure necessary for the owner or operator to reclaim the plate or otherwise obtain reinstatement as applicable.

The removed Louisiana license plate and a copy of the written notice should be delivered by the issuing law enforcement agency to a local Motor Vehicle Office within 48 hours of the issuance of the notice. The location of the receiving Motor Vehicle Office shall be determined by the issuing law enforcement agency. The removed Louisiana license plate, or if such plate has been lost or misplaced by the issuing agency, a statement explaining the loss or misplacement and identifying the owner of the plate, should be received by the office manager or designated agent at the local Motor Vehicle Office. Any receipt requested by the surrendering agency shall be provided by the assigned motor vehicle officer receiving the plate or statement of loss or misplacement.

The receiving Motor Vehicle Office shall be responsible for immediately coding the registration records of the Office of Motor Vehicles to prevent the owner from obtaining another license plate on the vehicle in question until liability security status of the motor vehicle is determined. Should the registered owner, including registered lessee, or operator provide proof of liability security which was effective at the time of the violation, within 10 working days from date of issuance of the violation notice, the seized plate (if serviceable) shall be returned and the computer record of registration and licensing privileges cleared. The proof of liability security must be provided at the local motor vehicle office where the plate or statement of its loss or misplacement was delivered.

If the noticed operator or registered owner (including registered lessee) provides proof of compliance of liability security within 10 working days from the date of notice, but the seized plate is no longer serviceable or for any reason

cannot be returned, a new plate must be issued. The only charge with regard to the issuance of the new plate will be the collection of the motor vehicle registration license tax applicable to the term of the plate beyond the expired term of the seized plate. Neither a handling fee nor a \$10 fee, as provided for in Act 805, shall be charged.

If the registered owner (including registered lessee) or operator does not provide proof of liability security within 10 working days from the date of notice of violation, a \$10 reinstatement fee will be charged upon re-registration of the vehicle. This fee will be charged even if there has been no lapse of coverage on the vehicle in question. Additionally, the motor vehicle registration license tax for the period beyond the date of expiration of the term of the seized plate will be charged, however, no handling fee shall be charged.

Colonel Paul W. Fontenot
Deputy Secretary

DECLARATION OF EMERGENCY

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

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

In accordance with the provision of R.S. 49:951 et seq., the Riverboat Gaming Division, after consideration of the evidence available to it, hereby determines that a state of emergency exists in riverboat gaming in Louisiana which affects the safety, health or welfare of the public in general.

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

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

The division further determines that unless immediate rule action is taken by the division, those companies which are presently willing to invest millions of dollars in Louisiana and provide thousands of jobs to Louisiana residents will decide to

invest their resources in other jurisdictions which presently offer riverboat gaming or will have authorized riverboat gaming in the near future.

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

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

As a result of the above findings, the Louisiana Riverboat Gaming Division hereby adopts an emergency rule, effective January 25, 1993, for the maximum period of 120 days.

Title 42

LOUISIANA GAMING

PART XIII. RIVERBOAT GAMING

Subpart 2. State Police Riverboat Gaming Enforcement Division

Chapter 17. General Provisions

§1701. Definitions

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

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

Administrative approval—the authority conferred upon the division by any regulation or by a condition imposed on a license or permit to grant or deny, in their individual discretion, a request for approval of a proposed action or transaction.

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

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

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

Applicant Records—those records which contain information and data pertaining to an applicant's criminal record, antecedents and background, and the applicant's financial records, furnished to or obtained by the division from any source incidental to an investigation for licensure, findings of suitability, registration, or other affirmative approval.

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

Architectural Plans and Specifications or Architectural Plans or Plans or Specifications—all of the plans, drawings, and specifications for the construction, furnishing, and

equipping of a riverboat, including, but not limited to, detailed specifications and illustrative drawings or models depicting the proposed size, layout and configuration of the component parts of the vessel, including electrical and plumbing systems, engineering, structure, and aesthetic interior and exterior design as are prepared by one or more licensed professional architects and engineers. *Architectural Plans and Specifications* does not include *FF&E*, as defined in this Chapter.

Associated Equipment—any gaming device which does not affect the outcome of the game, except as otherwise provided in these regulations.

Berth—a location where a riverboat is or will be authorized to dock as provided in the act and regulations.

Business Year—the annual period used by a licensee for internal accounting purposes as defined and approved by the division.

Candidate—any person whom the division believes should be placed on the list of excluded persons.

Certification Fees—the fees charged by commission or division incidental to the certification of documents.

Certified Electronic Technician—qualified service personnel trained by a manufacturer, distributor, or other qualified entity, or through training programs approved by the division, who are capable of performing any repairs, parts replacements, maintenance, cleaning, and other matters relating to servicing of devices.

Chairman—the chairman of the Louisiana Riverboat Gaming Commission.

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

Commission—the Louisiana Riverboat Gaming Commission.

Component—any substantial or tangible part of a riverboat that must be built or made to complete construction of the riverboat or that must be modified for installation or use in or on the riverboat, including but not limited to engines, motors, boilers, generators, electrical systems and wiring, plumbing systems and apparatus, heating and cooling systems, custom-made furniture and fixtures. *Component* does not include *FF&E* as defined this Chapter.

Confidential Record—any paper, document or other record or data reduced to a record which is not open to public inspection.

Day—as used in these regulations shall mean a calendar day.

Designated Gaming Area—that portion of a riverboat in which gaming activities may be conducted. Such designated gaming area shall not exceed 60 percent of the total square footage of the passenger access area of the vessel or 30,000 square feet, whichever is lesser.

Designated Representative—a person designated by the licensee to oversee and assume responsibility for the operation of the licensee's gaming business.

Designated River or Waterway—those rivers or bodies of water listed in R.S. 4:503 with amendment upon which gaming activities may be conducted.

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

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

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

Division Surveillance Room—a room or rooms on each riverboat for the exclusive use of division agents.

Dock or Docking—to lower the gangplank to a pier or shore or to anchor a riverboat at a pier or shore, or both. The term also means the place where docking occurs and where one or more berths may be located.

Drop—

a. for table games, the total amount of money, chips, and tokens contained in the drop boxes.

b. for slot machines, the total amount of money and tokens removed from the drop box, or for cashless slot machines, the amounts deducted from a player's slot account as a result of slot machine play.

Duplication Fees—a charge for duplicating documents for release to the requesting person.

Economic Interest or Interest—any interest in a license or licensee whereby a person receives or is entitled to receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest, or other benefit.

Electronic Fund Transfer—any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument that is initiated through an electronic terminal, telephone, computer, or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

Electronic Gaming Device—any mechanical or electrical device or machine which upon payment of consideration is available to play or operate, operation of which, whether by reason of the skill of the operator, or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive premiums, merchandise, tokens, redeemable game credits or anything of value other than unredeemable free games whether the payoff is made automatically from the machines or in any other manner.

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

access to designated gaming areas.

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

Excluded List—a list or lists which contain identities of persons who are to be excluded or ejected from any licensed gaming operation in any jurisdiction or foreign countries or pursuant to the act.

Excluded Person—any person who has been placed on the list of excluded persons by the division and who has failed to timely request a hearing or who remains on the list after a final determination.

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

FF&E (Furniture, Fixtures and Equipment)—any part of a riverboat that may be installed or put into use as purchased from a manufacturer, wholesaler, or retailer, including but not limited to gaming devices, television cameras, television monitors, computer systems, computer programs, computers, computer printers, ready made furniture and fixtures, appliances, accessories, and all other similar kinds of equipment and furnishings.

Financial Records—those records which relate to the finances, earnings, or revenue of an applicant, licensee, registered company, or person to whom any approval has been granted.

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

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

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

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

Game Outcome—the final result of the wager.

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

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

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

- a. must be at least 21 years of age;

- b. must have a working knowledge of the act and the regulations; and

- c. such other qualifications as required by the division.

Inspection—periodic surveillance and observation by the division of operations conducted by a licensee or permittee, which surveillance and observation may or may not be made known to the licensee or permittee.

Internal Control System—internal procedures and administration and accounting controls designed by the licensee and approved by the division, of an operator's license for the purpose of exercising control over the riverboat gaming operation.

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

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

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

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

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

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

Net Gaming Proceeds—the total of all cash and property (including checks received by a licensee, whether collected or not) received by the licensee from gaming operations, less the total of all cash paid out as winnings to patrons.

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

Operation—a licensed riverboat gaming operation or the operation of a manufacturer and supplier pursuant to the issuance of a permit or the operation of racehorse wagering pursuant to the issuance of a permit under the act.

Operator's License—a riverboat gaming operator's license.

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

Patron—an individual who is at least 21 years of age and who has lawfully placed a wager in an authorized gambling game on a riverboat.

Payout—winnings earned on a wager.

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

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

Person—an individual, partnership, corporation,

unincorporated association, or other legal entity.

Premises—land, together with all buildings, vessels, improvements, and personal property located thereon.

Public Record—any paper, document, or other record required to be kept or necessary to be kept, in the discharge of a duty imposed by law, not declared confidential by statute or regulation.

Randomness—the observed unpredictability and absence of pattern in a set of elements or events that have definite probabilities of occurrence.

Records—accounts, correspondence, memorandums, tapes, disks, papers, books, and other documents or transcribed information of any type, whether expressed in ordinary or machine language.

Regulations—the riverboat gaming regulations promulgated pursuant to the act.

Renewal Applicant—a person who has filed any part of an application for renewal of any license or permit authorized by the act.

Renewal Application—all of the information, documents, forms, and materials required by the act and regulations to be filed with the division to renew any license or permit authorized by the act.

Riverboat—a vessel that carries a valid certificate of inspection issued by the United States Coast Guard with regard to the carriage of passengers on designated rivers or waterways within or contiguous to the boundaries of the state of Louisiana, carries a valid certificate of inspection from the United States Coast Guard for the carriage of a minimum of 600 passengers and crew, has a minimum length of 150 feet, is of such type and design so as to replicate as nearly as practicable historic Louisiana river borne steamboat passenger vessels of the 19th Century era, and is paddlewheel driven. A riverboat as defined herein is not required to be steam propelled or maintain overnight facilities for its passengers.

Riverboat Operator—an owner and/or operator of a riverboat.

Route—the path of one or more riverboats moving continuously on designated rivers and waterways as permitted or authorized by the commission.

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

Supervisor—the individual in charge of the division.

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

Token—a metal representative of value, redeemable for cash, and issued and sold by a licensee for use in slot machines, table games or counter games at the licensee's gaming establishment.

Wager—a sum of money or thing of value risked on an uncertain occurrence.

Win—the dollar amount won by the licensee through table game play.

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

HISTORICAL NOTE: Promulgated by the Department of Public

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

Chapter 19. Administrative Procedures and Authority **§1901. Issuance and Construction of Regulations and Administrative Matters**

A. Division Rules and Regulations; Promulgation; Commission Approval

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

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

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

B. Construction of Regulations; Severability

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

C. Definitions, Captions, Pronouns, and Gender

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

D. Establishment of Committees

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

E. Review of Administrative Decisions

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

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

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

Chapter 21. Licenses and Permits

§2101. General Authority of the Division

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

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

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

§2103. Applications in General

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

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

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

§2105. Investigations

The division shall investigate all applications for a license, permit or other matters requiring division approval. The division may investigate, without limitation, the background of the applicant, the suitability of the applicant, the suitability of the applicant's finances, the applicant's business probity, the suitability of the proposed premises for gaming, and the proposed establishment's compliance with all applicable federal, state, and local laws and regulations.

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

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

§2107. Applicants in General; Restrictions

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

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

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

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

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

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

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

- a. have influence over the operation of gaming on a riverboat or riverboats;
- b. receive any share or portion of the money or property won by the operator of gaming on a riverboat; or
- c. receive compensation or remuneration in excess of \$25,000 per annum (as an employee of a licensee or in exchange for any service or thing) provided to the licensee on a riverboat; or
- d. be a lessor or provider of goods or services; or
- e. have any contractual agreement with a licensee.

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

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

§2109. Management Agreement

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

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

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

§2111. License or Permit Disqualification Criteria

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

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

2. failure of the applicant to prove by clear and

convincing evidence that he is qualified in accordance with the provisions of these regulations.

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

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

§2113. Gaming Operator License and Permits; Suitability

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

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

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

1. the applicant is capable of conducting gaming operations, which means that the applicant can demonstrate the capability, either through training, education, business experience, or a combination of the above to operate a gaming casino.
2. the proposed financing of the riverboat and the gaming operations is adequate for the nature of the proposed operation and from a source suitable and acceptable to the division.
3. the applicant has demonstrated a proven ability to operate a vessel of comparable size and capacity and of comparable complexity to a riverboat so as to ensure the safety of its passengers as set forth in the commission regulations.
4. the applicant has submitted a detailed plan of design of the riverboat.
5. the applicant has shown adequate financial ability to construct and maintain a riverboat.
6. the applicant has designated the docking facilities to be used by the riverboat.
7. the applicant has a good-faith plan to recruit, train, and upgrade minorities in all employment classifications.
8. the owners plan to provide the maximum practical opportunities for participation by the broadest number of minority-owned businesses.

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

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

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

§2115. Tax Clearances

No person will be employed by the licensee who is not current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to the state of

Louisiana and the Internal Revenue Service, excluding contested amounts pursuant to applicable statutes, and items for which the department of revenue and taxation or the Internal Revenue Service has accepted a payment schedule of back taxes.

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

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

§2117. Certification Required

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

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

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

§2119. Single Operator's License

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

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

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

§2121. Form of Application

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

1. a history record regarding the background for the ten-year period preceding submission of the application, unless otherwise extended by the supervisor;
2. a financial statement;
3. a statement disclosing the nature, source, and amount of any financing, the proposed uses of all available funds, the amount of funds available after opening for the actual operation of the riverboat, and economic projections for the first three years of operation of the riverboat;
4. an affidavit of full disclosure, signed by the applicant;
5. an authorization to release information to the division and commission, signed by the applicant;
6. a standard bank confirmation form, signed by the applicant;
7. a release of all claims, signed by the applicant;
8. in addition, the division may require an applicant to provide such other information and details as it needs to discharge it's duties properly. Failure to supply any information within the prescribed time periods, after receiving the division's or the commission's request, constitutes grounds

for delaying consideration of the application and/or constitutes grounds for denial of the application; and

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

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

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

§2123. Additional Application Information Required

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

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

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

3. the proposed route to be followed;

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

- a. facility design expense;
- b. land acquisition or site lease costs;
- c. site preparation costs;
- d. construction cost or renovation cost;
- e. equipment acquisition cost;
- f. cost of interim financing;
- g. organization, administrative and legal expenses;
- h. projected permanent financing costs.

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

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

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

8. the adequacy of security enforcement on the riverboat;

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

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

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

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

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

§2125. Access to Applicants Premises and Records

Each applicant shall upon request immediately make available for inspection by the division or agents of the division, all papers, books and records used, or to be used, in the licensed or permitted operation. The division, or any agent of the division, or a commissioner, or agent of the

commission shall be given immediate access to any portion of the premises of any riverboat or premises of a manufacturer or supplier for the purpose of inspecting or examining any records or documents required to be kept under the provisions of the act and the regulations and any gaming device or equipment or the conduct of any gaming activity. Access to the areas and records that may be inspected or examined by the division, division agents, commissioners or their agents must be granted to any such individual who displays division or commission credentials.

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

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

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

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

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

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

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

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

§2129. Other Considerations for Licensing

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

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

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

3. Character and reputation. The division may consider the character and reputation of all persons identified with the ownership and operation of the riverboat, and their capability

to comply with the regulations of the division, regulations of the commission, and the provisions of the act.

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

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

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

§2131. Timetable for Financing and Construction

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

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

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

§2133. Filing of Application

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

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

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

§2135. Completeness of Application

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

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

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

§2137. Fingerprinting

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

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

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

§2139. Application Filing Fees

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

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

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

§2141. Renewal Applications

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

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

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

§2143. Conduct of Investigation; Time Requirements

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

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

2. If a renewal application has been filed with the division by a person who is qualified to file a renewal application, the division may investigate the applicant commencing with the date of the issuance of the existing license, and matters previously investigated shall not automatically be the subject of reinvestigation except as relevant to a current investigation. Such investigation shall be completed within 30 days. The supervisor may extend the period if circumstances require.

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

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

§2145. Notice of Division Hearing to Consider Application

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

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

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

supervisor at least five days prior to the scheduled appearance.

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

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

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

§2147. Issuance of Decision

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

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

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

§2149. Appeal of Division Decision to Commission

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

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

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

§2151. Waiver of Privilege

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

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

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

§2153. Multiple Licensing Criteria

A. A person licensed as a riverboat gaming operator may apply for additional licenses. In all such cases, the division shall consider whether such multiple approval is in the best interest of the state of Louisiana, having due regard for the state's policy concerning economic development and gaming. In making this determination, the division may consider any index or criteria deemed by the supervisor to be relevant to

the effect of multiple licenses upon the public health, safety, morals, good order and general welfare of the public of the state of Louisiana, including but not limited to the following factors:

1. the quality of the applicant's performance under the act and regulations;

2. the adequacy of resources available to the applicant to undertake additional operations, including but not limited to manpower, managerial and financial resources;

3. whether additional operations would jeopardize the stability of the existing operation; and

4. whether additional operations would be inimical to the economic development of the state.

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

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

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

§2155. Withdrawal of Application

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

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

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

§2157. Application After Denial

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

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

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

§2159. Gaming Employee Permits Required

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

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

C. Every gaming employee shall keep his gaming employee permit on his person and displayed in accordance with §2165

at all times when actively engaged in gaming operations, or on the licensed premises.

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

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

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

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

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

§2161. Application for Gaming Employee Permit; Procedure

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

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

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

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

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

§2163. Withdrawal of Temporary Gaming Employee Permit

A. The licensee shall withdraw an applicant's temporary gaming employee permit badge upon determining that the applicant's permit has been denied by the division.

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

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

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

§2165. Display of Gaming Employee Permit

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

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

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

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

§2167. Procedure for Hearing after Denial by the Division

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

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

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

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

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

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

§2169. Fees for Issuance of Licenses and Permits

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

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

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

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

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

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

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

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

Chapter 23. Compliance, Inspections and Investigations

§2301. Applicability and Resources

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

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

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

§2303. Inspections and Observations

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

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

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

§2305. Inspections During Construction

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

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

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

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

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

§2307. Investigations

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

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

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

§2309. Investigative Powers of the Division

In conducting an investigation, the division is empowered to:

1. inspect and examine all premises wherein gaming activities are conducted, proposed to be conducted or gaming devices are maintained or repaired and where all papers,

books, records, documents and electronically stored media are maintained;

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

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

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

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

6. conduct investigative hearings; and

7. issue written interrogatories.

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

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

§2311. Seizure and Removal of Gaming Equipment and Devices

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

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

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

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

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

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

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

§2315. Seized Equipment and Devices as Evidence

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

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

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

claim with the division to contest the characterization of the property as a cheating device.

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

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

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

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

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

§2317. Subpoenas in Connection with Investigative Hearings

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

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

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

§2319. Contempt

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

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

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

§2321. Investigative Hearings

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

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

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

§2323. Interrogatories

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

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

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

Paul W. Fontenot
Deputy Secretary

DECLARATION OF EMERGENCY

Department of Social Services Office of Community Services

Child Protection Investigation Report Acceptance

The Department of Social Services, Office of Community Services, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Child Protection Investigation Program, in order to set priorities for case response and allocate staff resources to cases identified by reporters as presenting immediate substantial risk of harm to children.

The Department of Social Services, Office of Community Services (OCS), hereby amends, through emergency rulemaking the rule entitled "Child Protective Services Prioritization" published in the *Louisiana Register*, Vol. 17, No. 4, April 20, 1991, pages 387-388 by deleting Part I, Prioritization and Acceptance of Reports of Child Abuse and Neglect. Part II, Time Limits for Acceptance of Reports, remains in effect. OCS withdraws the notice of intent entitled "Child Protective Services Prioritization", published in the *Louisiana Register*, Vol. 18, No. 3, March 20, 1992, Pages 316-319.

The Department of Social Services, Office of Community Services, published an emergency rule in the *Louisiana Register*, Vol. 18, No. 7, July 20, 1992, on pages 683-684, concerning child protective services prioritization. This emergency rule which excluded low risk cases for acceptance for investigation will expire with the declaration of this new emergency rule. The department has subsequently conducted statewide public hearings on the emergency rule. Public input elicited by the public hearings has been considered in the development of this emergency rule.

The 356 persons who attended and registered at the eight public hearings across the state will receive a copy of the tabulated results of both the written and verbal comments when completely transcribed. Any other interested person may receive the same information by making a written request to Brenda Kelley, Assistant Secretary, OCS, Box 3318, Baton Rouge, LA 70821.

EMERGENCY RULE

Report Investigation

Reports will be assigned for investigation when the circumstances of the report indicate either:

(1) a cause to believe by the reporter that substantial risk of harm to the child is present and the child's physical, mental, or emotional health is seriously endangered as a result; or

(2) the reporter has cause to believe that abuse or neglect has already occurred.

The Office of Community Services will investigate reports of abuse and/or neglect which provide first hand information of an injury, or of evidence of an injury to a child, such as personal observation of photographs, names of witnesses, medical reports, or police reports, which cause a reporter to believe that a child has been injured or is at substantial risk of injury through the action or inaction of the child's caretaker.

It is important to understand that in all cases the reported circumstances of the child, such as, age, health, current condition, and the past history of the family and alleged perpetrator, such as access to the victim, history of violence or neglect, and parental willingness and/or ability to protect the child, could add information that will either establish or weaken the reason to believe that immediate and substantial risk of harm is likely to be present.

Response Time

The reports classified as presenting low risk to the child with no indication of immediate substantial harm alleged will be assigned a response time of up to 10 working days from the date the report was received.

Anonymous Reports

Reports of alleged child abuse and neglect will be accepted from anonymous reporters.

OCS intake staff shall attempt to obtain the reporter's name and address so that follow up contacts are possible in order to clarify information contained in the report and to improve the assessment of risk to the child. The reporter shall be informed of the confidentiality of the reporter's identity and the legal protection from civil or criminal liability for reporters who report in good faith.

The Office of Community Services, pursuant to a request made during the public hearing process, has sought an attorney general's opinion on the effect of Louisiana law regarding provision of a name and address by a permissive reporter of child abuse and/or neglect. It is the intent of the office to adhere to the interpretation of the law as provided by the attorney general.

Bad Faith Reports

At any time when OCS staff has reason to believe that a report(s) of child abuse and/or neglect has been made in bad faith, all available information shall be turned over to the district attorney for review.

This action would be taken when there is evidence that the reporter made a report known to be false or with reckless disregard for the truth of the report.

Residential Care of Children in State Custody

In order to provide some workload relief for child protection and foster care staff in the Office of Community Services, the positions assigned to the Gary W. program will be transitioned

consistent with the federal court's approval of conclusion of OCS activities in the Gary W. case, into monitoring and strengthening of residential foster care programs to prevent occurrence in Louisiana of abusive or neglectful conditions for foster children which resulted in the Gary W. judgment against the state of Louisiana.

Non Reports

According to the Guidelines for a Model System of Protective Services established by the National Association of Public Child Welfare Administrators, child protective services is a specialized field of child welfare which is not an appropriate service for all child and family-related problems. These guidelines have been used to assist staff in making a determination of those situations which do not constitute a report of child abuse and/or neglect. Response from the public during the recent hearings indicated that the majority of participants were in concurrence with these decisions.

Following is a listing of non-reports of child abuse and/or neglect. Brief explanations are included for clarity. If there is a need for medical, mental health, social, or other services to be provided to the child, his/her family, or the caretaker, appropriate referrals for such services will be made.

Death—of a child without surviving children in home (Information accepted for data collection on child deaths)

Sexual Activity—sibling/minor perpetrator with no alleged parental/caretaker culpability

Sexual Enticement/Harassment and Unspecified Sexual Abuse—without a specific allegation of sexual abuse by caretaker or parent

Venereal Disease—child age 13 or older without a specific allegation of sexual abuse by caretaker/parent

Abandonment—teenager whose parents want agency to take custody due to conflict/behavior and other unspecified family or behavior problem which does not include abuse or neglect

Clothing Inadequate—which does not seriously endanger life or health of the child

Dependency—substance abuse or mental/physical limitation of a parent which does not incapacitate them from providing minimally acceptable care

Drug/Alcohol Abuse—by teenager (with or without parental permission)

Educational Neglect—reports shall be referred to the local school board which is charged under Louisiana law with responsibility for enforcing compulsory school attendance.

Food Inadequate—reporter expresses concern about the family dietary choices which do not seriously endanger the development, health, or life of a child

Lack of Supervision—of a teenager 13 years or older unless mental capacity, physical condition or situational factors indicate serious threat to life or health of the child.

Medical Neglect—no strong likelihood of serious consequences such as failure to provide corrective shoes, glasses, or orthodontia

Shelter Inadequate—which does not seriously endanger the life or health of a child

Gloria Bryant-Banks
Secretary

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Individual and Family Grant Program
(LAC 67:III.6501,6502)

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 effective February 4, 1993, for a period of 120 days, in the Individual and Family Grant (IFG) Program.

Emergency rulemaking is necessary to amend the current maximum grant and flood insurance amounts in the Individual and Family Grant Program because of a recent federal disaster declaration.

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 10, Individual and Family Grant Program.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 10. Individual and Family Grant Program

Chapter 65. Application, Eligibility, and Furnishing Assistance

Subchapter C. Need and Amount of Assistance

§6501. Maximum Grant Amount

A. The maximum grant amount in the IFG Program for Federal Fiscal Year October 1992 through September 1993 is \$11,900.

* * *

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131, P.L. 93-288 and F.R. 57:45794.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:744 (September 1989), amended by the Department of Social Services, Office of Family Support, LR 17:474 (May 1991), LR 17:766 (August 1991), LR 17:888 (September 1991), LR 18:939 (September 1992), LR 18:1352 (December 1992), LR 19:

§6502. Flood Insurance

* * *

B. For Federal Fiscal Year October 1992 through September 1993, the dollar value of the required flood insurance policy for housing and personal property grants where the applicant resides in a flood zone is \$7,000 building and \$4,900 contents for a homeowner, and \$11,900 contents for a renter.

* * *

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131 and P.L. 93-288.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:744 (September 1989), amended by the Department of Social Services, Office of

Family Support, LR 17:474 (May 1991), LR 17:766 (August 1991), LR 17:888 (September 1991), LR 18:939 (September 1992), LR 18:1352 (December 1992), LR 19:

Gloria Bryant-Banks
Secretary

DECLARATION OF EMERGENCY

Department of State Office of the Secretary

Executive Branch Lobbying

In accordance with R.S. 49:953(B), the Department of State, Office of the Secretary, is exercising the emergency provisions of the Administrative Procedure Act to implement the provisions of Act 755 of the 1991 Regular Session of the Louisiana Legislature, specifically R.S. 42:1211 through 1221. This rulemaking establishes policies and procedures for the registering and reporting of Lobbyist and Lobbyist Principals before State Agencies and is necessary in order that the provisions of R.S. 42:1211 through 1221 may be implemented and administered in a timely manner. This emergency rule becomes effective January 22, 1993 and hereby repeals and replaces the prior emergency rule made effective January 1, 1993. This emergency rule shall remain in effect for 120 days or until final rule promulgation takes effect. Emergency rulemaking is necessary in order that individuals know the procedures and rules for registering prior to lobbying the executive branch. It is expected that lobbyists register by February 1, 1993, prior to final rules being in effect.

EMERGENCY RULE

Chapter 1. Executive Branch Lobbying

§101. Policy

R.S. 42:1211-1221, Lobbying Before State Agencies (hereinafter referred to as "Executive Branch Lobbying"), adopts registering and reporting procedures for Executive Branch Lobbying, effective January 1, 1992.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1211-1221.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary, LR 19:

§103. Definitions

For all purposes of these emergency rules and regulations, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

Associated—as it relates to being associated with a lobbyist or a lobbyist principal he represents in R.S. 42:1214(A)(3), shall mean joint ownership of any business, economic enterprise, or legal entity, or full time employment with any business, economic enterprise, or legal entity in which the executive branch official exercises control or owns an interest in excess of 25 percent. (R.S. 42:112).

Executive Branch Action—as defined in R.S. 42:1212(1), shall not apply to the assembling and reporting of information to executive branch agencies as required by law.

For the Purpose of Lobbying—contained in this Chapter shall mean only a situation in which an individual's principal purpose is lobbying.

Lobbying—as defined in R.S. 42:1212(5), shall not apply to mass media expenditures which are attributable directly to the production of a "news letter" which is solely for the dissemination of information regarding executive branch action or the status of executive branch action. The term shall not apply to any request for information concerning an executive branch action or agency, or a request to send comments to an agency regarding an executive branch action. The term shall also not apply to an inquiry as to the status of an executive branch action.

Lobbyist—as defined in R.S. 42:1212(6), includes an individual who represents an organization, association, or other group for the purpose of lobbying, whether compensated or not. It shall not include each member of the organization, association, or group, but only an individual who lobbies as an authorized representative of an organization, association, or other group.

a. *Lobbyist*—also includes a person who lobbies and who has a pecuniary interest in the executive branch action. The term "pecuniary interest" shall mean a direct and substantial pecuniary interest which is of greater benefit to the person than to a general class or general group of persons, except it shall not include:

i. the interest that the person has in his position, office, rank, salary, per diem, or other matter arising solely from his own present business, employment, or office;

ii. the interest that a person presently has as a member of the general public.

Lobbyist Principal—as defined in R.S. 42:1212(7), shall not include the employees or members of the staff of the lobbyist principal or the employees or members of the association, organization, or corporation which is a lobbyist principal.

Salary and Compensation—as provided for in R.S. 42:1212(3)(d) and as they relate to payments made to a lobbyist, shall not include any monies paid to the lobbyist solely for the performance of his job duties; including, but not limited to monies received from partnership distributions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1211-1221.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary, LR 19:

§105. Applicability

A. This Chapter shall be applicable to all persons who are defined as lobbyists in R.S. 42:1212(6), except those excluded under R.S. 42:1213.

B. In regards to R.S. 42:1213(3), *usual job functions of an employee* shall mean his daily job duties. Furthermore, *primary function of an employer* shall mean an employer who owns, operates, or has at least a 25 percent joint ownership of a lobbyist firm, association, or economic enterprise.

C. In regards to R.S. 42:1213(4), the exclusion shall be applicable to any newspaper which publishes editorial

comment, news articles, and advertisements for or against executive branch action and which otherwise lobbies only by appearing before an executive branch agency to give information.

D. In regards to R.S. 42:1213(6), the time computation for the 16 hour time limitation shall include only those hours actually spent lobbying on an executive branch action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1211-1221.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary, LR 19:

§107. Registration Fees

A. A fee of \$50 for each registrant who receives any compensation, economic consideration, or reimbursement for lobbying for each registration and each renewal of the registration.

B. A fee of \$25 for all other registrants for each registration and each renewal of the registration.

C. All fees shall accompany the Executive Branch Lobbying Registration Form. Fees may be tendered in cash or by check, made payable to the Secretary of State.

D. Registration forms received without proper payment of fees shall be returned to the registrant.

E. No fee is required to file a supplemental report, or for filing by a public official or employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1211-1221.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary, LR 19:

§109. Forms to be used in Registering and Reporting

A. The registration form to be filed with the Secretary of State is called an Executive Branch Lobbyist Registration Form.

B. The lobbyist reporting form to be filed with the Secretary of State is called an Executive Branch Lobbyist Expenditure Report Form.

C. The lobbyist principal reporting form to be filed with the Secretary of State is called an Executive Branch Lobbyist Principal Expenditure Report Form.

D. The sworn statement of employment form to be filed with the Secretary of State is called the Executive Branch Lobbyist Employment Verification Form and shall be attached to the registration form and labeled "Attachment A". Only the employer is required to sign the verification form, provided the lobbyist is employed by one employer. The lobbyist is required to disclose all persons whose interest he represents, if different from the employer, on the registration form. If the lobbyist is actually employed by more than one employer, each employer must sign a verification form.

E. The affidavit report form, provided for in lieu of a report form, in R.S. 42:1215(A)(2), to be filed with the Secretary of State is called an Executive Branch Expenditure Affidavit Form.

F. All forms shall be stocked and dispensed upon request by the Secretary of State's Office, Commissions Division, P. O. Box 94125, Baton Rouge, LA 70804-9125, (504) 342-4980.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1211-1221.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary, LR 19:

§111. Place of Filing Executive Branch Lobbyist Registration and Expenditure Report Forms

A. The proper place to file an Executive Branch Lobbyist Registration or Expenditure Report Form is with the Secretary of State's Office, Commissions Division, P. O. Box 94125, Baton Rouge, LA 70804-9125, (504) 342-4980.

B. It is necessary that an original and one copy of the required forms be filed with the Secretary of State.

C. All registration and reporting forms shall be signed by the proper party under oath. The Secretary of State shall return any filings which are not signed under oath.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1211-1221.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary, LR 19:

§113. Public Records

A. All reports filed with the Secretary of State shall be maintained as a public record available for public inspection during normal working hours.

B. The Secretary of State shall charge a reasonable amount for copies of such reports as approved by the Joint Legislative Committee on the Budget.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1211-1221.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary, LR 19:

W. Fox McKeithen
Secretary

DECLARATION OF EMERGENCY

Department of Treasury
Louisiana Housing Finance Agency

Emergency Home Investment Partnership Program Rule

In accordance with R.S. 49:953(B), the Louisiana Housing Finance Agency is exercising the emergency provisions of the Administrative Procedure Act in connection with the administration and allocation of HOME Program funds under the Cranston-Gonzalez National Affordable Housing Act of 1990.

The purpose of this emergency rule is to avoid imminent peril to the welfare of the residents of the state. Failure of the LHFA to adopt this emergency rule would harm the residents of the state by not permitting the state to award, commit and disperse HOME Programs funds to the extent permitted by the federal government.

This emergency rule shall be effective from its date of adoption, January 13, 1993, and shall continue in effect until the earlier of adoption of a substitute rule or 120 days.

EMERGENCY RULE

The agency has adopted the form of HOME Investment Partnership Program Application Package in connection with

the administration and allocation of HOME Program funds. The following rule and policies govern the allocation and award of HOME Program funds.

I. Home Program Application Fees

A. Rehabilitation		
Project Size		Application Fee
1 to 4 units		\$ 200
5 to 16 units		\$ 500
17 to 32 units		\$1,000
33 to 60 units		\$1,500
61 to 100 units		\$2,000
Over 100 units		\$5,200
B. Homebuyer Assistance		
Single family dwellings (1 to 4 units)		\$ 200

II. Aggregate Pools

Name	Percentage of Available Funds
A. Allocation to jurisdictions to become eligible to administer HOME Program directly	4%
B. Administrative expenses	5%
C. CHDO operating support	5%
D. CHDO general fund	15%
E. Special needs set aside	24%
F. Rehabilitation programs	31%
G. Homebuyer assistance	16%

III. Selection Criteria To Award Home Funds To Rehabilitation Projects

	Points
A. Project located in comprehensive and concentrated neighborhood revitalization area	25
B. Project to be owned, developed or sponsored by Community Housing Development Organization (CHDO)	25
C. Leverage ratio for each home dollar	
Minimum Other Dollars	
\$1	5
\$2	10
\$3	15
\$4	20
\$5	25
D. Project to rehabilitate substandard housing units to minimum quality standards with total funds per unit not exceeding:	
\$ 2,500	25
\$ 5,000	20
\$ 7,500	15
\$10,000	10
\$15,000	7
\$20,000	5
\$25,000	2
E. Project to rehabilitate housing units of historic or architectural significance	25
F. Project to rehabilitate housing units serving special needs groups (check one or more):	50
G. Project promotes cooperative housing	25
H. Project to expend HOME funds by June 30, 1993	50

- I. Project to establish lease-purchase turnkey program 25
- IV. Selection Criteria To Award Home Funds To Local Governmental Units ("Sub-Recipients") Points
- A. Jurisdiction proposes comprehensive and concentrated neighborhood revitalization area 25
- B. Jurisdiction proposes to use Community Housing Development Organization (CHDOs) to own, sponsor or develop units to be rehabilitated 25
- C. Leverage ratio for each home dollar
- | | |
|-----------------------|--------|
| Minimum Other Dollars | Points |
| \$1 | 5 |
| \$2 | 10 |
| \$3 | 15 |
| \$4 | 20 |
| \$5 | 25 |
- D. Jurisdiction proposes to rehabilitate substandard housing units to minimum quality standards with total funds per unit not exceeding:
- | | |
|----------|----|
| \$ 2,500 | 25 |
| \$ 5,000 | 20 |
| \$ 7,500 | 15 |
| \$10,000 | 10 |
| \$15,000 | 7 |
| \$20,000 | 5 |
| \$25,000 | 2 |
- E. Jurisdiction rehabilitate to HQS following percentage of substandard units in rehabilitation area:
- | | |
|----------------------|----|
| 90 - 100 percent | 50 |
| 80 - 90 percent | 40 |
| 70 - 80 percent | 30 |
| 60 - 70 percent | 20 |
| 50 - 60 percent | 10 |
| less than 50 percent | 0 |
- F. Jurisdiction proposes to rehabilitate housing units of historic or architectural significance 25
- G. Jurisdiction proposes to rehabilitate housing units serving special needs groups (check one or more): 50
- H. Jurisdiction proposes to promote cooperative housing 25
- I. Jurisdiction proposes to commit HOME funds by June 30, 1993 50
- J. Jurisdiction proposes to establish lease-purchase turnkey program 25

Jennifer Trosclair
President

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Oyster Daily Quota

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 967, and under the authority of R.S. 56:25(A) and R.S. 56:435.1, notice is hereby given that the Wildlife and Fisheries Commission finds that imminent peril to the public welfare exists and hereby adopts the following emergency rule, effective February 4, 1993, for a period of 26 days:

There will be an increase in the oyster fishing quota regulation from 10 daily sacks to 15 sacks allowed daily for Calcasieu Lake for the remainder of the 1992-93 oyster season.

Bert H. Jones
Chairman

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Red Snapper Limits

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 56:6(25)(a) which delegates to the commission to set seasons, daily take and possession limits, based upon biological and technical data, the Wildlife and Fisheries Commission hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule, effective February 4, 1993, for the maximum period of 120 days:

Commercial Red Snapper Trip Limits

Those persons possessing a permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources, who do not possess a red snapper endorsement on that permit are limited to a daily take and possession limit of 200 pounds per vessel.

Those persons possessing a permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources, who do possess a red snapper endorsement on that permit are limited to a daily take and possession limit of 2,000 pounds per vessel.

The Gulf of Mexico Fishery Management Council has requested that this action be taken to provide consistent regulations for the fishery in both state and federal waters off the coast of Louisiana. The action is intended to benefit the industry by extending the duration of the fishing season, which is anticipated to result in more stable exvessel prices to the fishermen.

Bert H. Jones
Chairman

RULES

RULE

Department of Economic Development Real Estate Commission

Branch Office Supervision (LAC 46:LXVII.2403)

Notice is hereby given that the Louisiana Real Estate Commission has amended the following rules and regulations pertaining to branch office supervision.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Chapter 24. Branch Offices

§2403. Branch Office Supervision

Every branch office shall be under the direct supervision of a sponsoring, qualifying, or affiliated broker who shall be designated in writing as the branch office manager. A copy of the designation shall be submitted to the commission within five days following the date of the original designation or any changes thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435 and R.S. 37:1444.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 17:649, amended by the Department of Economic Development, Real Estate Commission, LR 19: (February 1993).

J.C. Willie
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 1191—School Transportation Handbook

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted a standard for the evaluation and determination of economic hardship for the curtailment of bus transportation as stipulated in R. S. 17:158(H) enacted into law during the 1992 Session of the Legislature, which requires parish or city school boards seeking approval to eliminate or reduce the level of transportation services to students for economically justifiable reasons to submit with these requests certain budgetary information. This standard, which is an amendment to Bulletin 1191, was also adopted as an emergency rule, effective August 20, 1992, and printed on page 819 of the August issue of the *Louisiana Register*.

AUTHORITY NOTE: R.S.17:158(H), Regular Session of the 1992 Legislature.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 19: (February 1993).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 1508—Pupil Appraisal Handbook

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the board amended Bulletin 1508, *Pupil Appraisal Handbook*.

These changes were approved in accordance with the requirements of the Corrective Action Plan relative to the federal compliance monitoring of the state of Louisiana's Special Education programs. The changes were adopted as an emergency rule and printed in full in the August, 1992 issue of the *Louisiana Register*. Paragraphs (5) and (6) under Independent Individual Evaluation which were inadvertently omitted when the other changes were adopted and printed in the August, 1992 issue of the *Louisiana Register* have been adopted and printed in the October, 1992, issue of the *Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 19: (February 1993).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 1525, Personnel Evaluation
(LAC 28:I.917)

In accordance with the R. S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education amended Bulletin 1525, *Personnel Evaluation*. Revised Bulletin 1525 incorporates pages 13-18 of the Louisiana Components of Effective Teaching (the work of Panel I) and pages 1-22 of the Procedure Manual for the local teacher evaluation program (the work of Panel II).

This bulletin was also adopted as an emergency rule and printed in full in the October, 1992, issue of the *Louisiana*

Register. Pages 13-18 of the Louisiana Components of Effective Teaching (the work of Panel I) were adopted as an emergency rule and printed in full in the September, 1992, issue of the *Register* on pages 927-928. Pages 1-22 of the Procedure Manual for the local teacher evaluation program (the work of Panel II) were also adopted as an emergency rule and printed in full on pages 929-936 of the September 1992 issue of the *Register*.

Bulletin 1525 is referenced in the Administrative Code, Title 28, which will be amended as follows:

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans**

§917. Personnel Evaluation Standards and Regulations

A. Bulletin 1525

1. Bulletin 1525, Personnel Evaluations, is adopted as revised.

* * *

3. Revised Bulletin 1525 incorporates pages 13-18 of the Louisiana Components of Effective Teaching (the work of Panel I) and pages 1-22 of the Procedure Manual for the local teacher evaluation program (the work of Panel II).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.3; R.S. 17:391.5; R.S. 17:391.10.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 19: (February 1993).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 1573—Complaint Management System

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted the interim changes to Bulletin 1573, Complaint Management System. These changes were adopted in accordance with the requirements of the Corrective Action Plan relative to the federal compliance monitoring of the State of Louisiana Special Education programs. These changes were adopted as an emergency rule and printed in full in the August, 1992, issue of the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941-1958.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 19: (February 1993).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 1706, Exceptional Children's Act

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education amended Bulletin 1706, *Regulations for the Implementation of the Exceptional Children's Act*.

These changes were adopted in accordance with the requirements of the Corrective Action Plan relative to the federal compliance monitoring of the state of Louisiana's Special Education programs. These interim changes to Bulletin 1706 were also adopted as an emergency rule and printed in full in the August, 1992, issue of the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941-1958.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19: (February 1993).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

8(g) Policy Manual

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education amended Section 172 (Final Programmatic Report) of the 8(g) Policy Manual to add the following statement.

"Those 8(g) recipients who have not submitted End of Year Reports on prior year projects as of September 1 shall not receive current year 8(g) funds until reports have been submitted."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3801.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 19: (February 1993).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Louisiana Components of Effective Teaching (LCET)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted the recommendations for the Louisiana Components of Effective Teaching (LCET): A Position Paper, Teacher Evaluation Panel I Report, pages 13-18. These pages of LCET which were adopted as an emergency rule and printed in full in the September, 1992 issue of the *Louisiana Register* is an amendment to the Administrative Code, Title 28 as noted below.

**Title 28
EDUCATION**

**Part 1. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans**

§917. Personnel Evaluation Standards and Regulations

* * *

B. Louisiana Components of Effective Teaching (LCET)

The Louisiana Components of Effective Teaching are a descriptive framework of effective teacher behavior to be used for both interns and experienced teachers. The components are the criteria which will be used to develop a system for teacher assessment and evaluation and are organized as follows:

- Domains: Major categories of teaching.
- Components: Subcategories or general concepts defining the domain.
- Attributes: Statements describing the variety of criteria that can be used to judge the effectiveness of teacher performance within a particular component.

Four domains, eight components and 27 attributes comprise the Louisiana Components of Effective Teaching.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.5, Act 506 of 1992 Regular Session.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 19: (February 1993).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Waiver of Minimum Standards (LAC 28:I.313)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education amended the Administrative Code, Title 28, Chapter 3, §313(E) and deleted the word "Pilot" as stated below:

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 3. Rules of Procedure**

§313. Waivers of Minimum Standards: Procedures

* * *

E. Programs in Special Education

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq. and R.S.17:458.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 19: (February 1993).

Carole Wallin
Executive Director

RULE

**Department of Education
Proprietary School Commission**

**Annual Licensure Renewal Fee
(LAC 28:I.1803)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Education amends Bulletin 1443 by amending the Annual Licensure Renewal Fee (PSC-12, Appendix L).

**TITLE 28
EDUCATION**

Part III. Proprietary Schools

Chapter 18. General Policies

§1801. Annual Licensure Renewal Fee

PSC-12

APPENDIX L

**ANNUAL LICENSURE RENEWAL FEE
BASED ON SCHOOL'S PREVIOUS YEAR GROSS
TUITION REVENUE
(R.S. 17:3141.4B)
STATE OF LOUISIANA
DEPARTMENT OF EDUCATION
PROPRIETARY SCHOOL COMMISSION
POST OFFICE BOX 94064
BATON ROUGE, LOUISIANA 70804-9064**

The annual renewal fee for licensed schools shall be based upon each school's previous year gross tuition revenue as follows:

<u>GROSS TUITION</u>	<u>FEE</u>
\$0 - 50,000	\$400
\$50,001 - 100,000	\$600
\$100,001 - 249,999	\$800
\$250,000 - 499,999	\$1,000
\$500,000 - 699,999	\$1,200
\$700,000 - 999,999	\$1,400
\$1,000,000 - 1,499,999	\$1,800
\$1,500,000 - 1,999,999	\$2,000
\$2,000,000 - 2,499,999	\$2,200
\$2,500,000 - AND ABOVE	\$2,500

PLEASE ATTACH:

- (1) This completed PSC-12 form which attests to the gross tuition income of the school, AND,

(2) FOR THOSE SCHOOLS WHICH PARTICIPATE IN TITLE IV FUNDING, a set of financial statements that have been audited by a Certified Public Accountant, including a current balance sheet and an income statement showing gross tuition receipts for the school's last fiscal year, and in the case of a corporation, signed by an officer of the corporation, or in the case of a sole proprietorship or partnership, signed by the owner(s) or a duly authorized agent acting on behalf of the owner(s), OR

FOR THOSE SCHOOLS WHICH DO NOT PARTICIPATE IN TITLE IV FUNDING, a set of financial statements that have been reviewed by a Certified Public Accountant, including a current balance sheet and an income statement showing gross tuition receipts for the school's last fiscal year, and in the case of a corporation, signed by an officer of the corporation OR in the case of a sole proprietorship or partnership, signed by the owner(s) or a duly authorized agent acting on behalf of the owner(s).

SEE REVERSE SIDE FOR AFFIDAVIT

AFFIDAVIT

KNOW ALL MEN BY THESE PRESENTS:

That we, _____ of the City of _____, State of _____, collected Gross Tuition in our previous business year (12-month period) from (date) _____ to _____, of \$ _____.

I do solemnly declare and affirm, under penalties of perjury that the information presented on this document is true and correct.

Signature: _____

Title: _____

Name of Institution: _____

Address: _____

Notary Public

Signature and Seal

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.4(A) and (B).

HISTORICAL NOTE: Promulgated by the Department of Education, Proprietary School Commission, LR 16:603 (July 1990), amended LR 19: (February 1993).

Andrew H. Gasperez
Executive Secretary

RULE

**Department of Education
Proprietary School Commission**

**Annual Student Protection Fund Fee Assessment
(LAC 28.I.1801)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Education amends Bulletin 1443 by adopting the Annual Student Protection Fee Assessment (PSC-13, Appendix M).

**TITLE 28
EDUCATION**

Part III. Proprietary Schools

Chapter 18. General Policies

§1803. Annual Student Protection Fee Assessment

PSC-13

APPENDIX M

**ANNUAL STUDENT PROTECTION FEE ASSESSMENT
BASED ON SCHOOL'S GROSS TUITION REVENUE**

(L.R.S. 17:3141.16)

STATE OF LOUISIANA

DEPARTMENT OF EDUCATION

PROPRIETARY SCHOOL COMMISSION

POST OFFICE BOX 94064

BATON ROUGE, LOUISIANA 70804-9064

Licensed schools pay an annual assessment fee according to a graduated scale based on their gross tuition revenue collected.

The scale is as follows:

Gross Tuition Collected During Assessment Period	Annual Payment
\$1 - 24,999	\$200
\$25,000 - 49,999	\$250
\$50,000 - 99,999	\$300
\$100,000 - 199,999	\$400
\$200,000 - 299,999	\$500
\$300,000 - 399,999	\$600
\$400,000 - 499,999	\$700
\$500,000 - 749,999	\$1,000
\$750,000 - 999,999	\$1,250
\$1,000,000 - 1,499,999	\$1,500
\$1,500,000 - and above	\$2,000

** AS REQUIRED BY STATE STATUTE, PLEASE MAKE ALL CHECKS/MONEY ORDERS PAYABLE TO "STUDENT PROTECTION FUND."

**PLEASE COMPLETE AFFIDAVIT
ON REVERSE SIDE**

AFFIDAVIT

KNOW ALL MEN BY THESE PRESENTS:

That we, _____ of the City of _____, State of _____, collected gross tuition revenue from July 1, 19__ to June 30, 19__ in the amount of \$ _____.

I do solemnly declare and affirm, under penalties of perjury that the information presented on this document is true and correct.

Signature: _____

Title: _____

Name of Institution: _____

Address: _____

Notary Public

Signature and Seal

ATTACH A SET OF REVIEWED AND/OR AUDITED FINANCIAL STATEMENTS FROM YOUR CPA INCLUDING A CURRENT BALANCE SHEET AND AN INCOME STATEMENT FOR YOUR SCHOOL'S LAST FISCAL YEAR.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.4(A) and (B).

HISTORICAL NOTE: Promulgated by the Department of Education, Proprietary School Commission, LR 19: (February 1993).

Andrew H. Gasperecz
Executive Secretary

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Louisiana Employment Opportunity (LEO) Loan Program Lender Selection

The Student Financial Assistance Commission, Office of Student Financial Assistance, has amended the Louisiana Employment Opportunity (LEO) Loan Program Policy and Procedure Manual by adding the following to Subsection 2.5:

* * *

K. The commission shall select the lending institutions to participate in the Louisiana Employment Opportunity (LEO) Loan Program. In the selection of a financial institution to perform the duties of a program lender, the following criteria shall apply:

1. The financial institution must be a state or federally chartered bank, savings and loan or credit union that concentrates its business activity and is headquartered in the state of Louisiana.

2. Unless the loan volume projected for an employer's program exceeds the capital investment a single bank is willing to make, only one financial institution shall be selected for each approved employer's program.

3. To be selected:

a. The lender shall submit a financial report from federal, state or third party examiners or a certificate of good standing from an oversight authority which evidences the financial stability of the institution.

b. Priority will be given to a lender whose main or branch office is located in proximity to the training site operated by the employer whose program it will support as the program lender. (Proximity is defined as within a 30 mile radius of the employer's training site.)

c. Priority will be given to a lender that participates as an eligible lender in the Federal Family Education Loan Program (FFELP) administered by the state of Louisiana.

d. The lender shall agree to perform to the program standards defined in the statute and regulations governing the LEO Loan Program.

e. The lender shall be acceptable to the employer whose program it will support as the program lender.

f. The lender shall, by letter of application, apply to the commission for appointment as the program lender for a specific employer's program and include therein:

- i. the name of the employer;
- ii. the maximum acceptable fixed, simple interest

rate that the institution would charge a program borrower based on the loan amount and repayment period defined in the employer's agreement with the Department of Economic Development. (Assuming that all other selection criteria are met, the commission shall give selection preference to the lender submitting the lowest simple interest rate bid);

iii. a statement that indicates the distance from the training site to the institution's closest main or branch office;

iv. a statement that the institution will agree to perform to program standards;

v. a statement that the institution does or does not participate in the Federal Family Education Loan Program (FFELP) administered by the state of Louisiana; and

vi. a financial report or certificate of good standing attesting to the financial stability of the institution.

4. The commission shall notify the financial institution by letter of its selection to participate as a program lender and forward the required participation agreement for execution and return by the lender.

* * *

Jack L. Guinn
Executive Director

RULE

Department of Elections and Registration Commissioner of Elections

Procurement of Voting Machine Storage and Drayage Services (LAC 31:III.711)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and under the authority of R.S. 18:21, R.S. 18:1371, and R.S. 36:662, the commissioner of the Department of Elections and Registration has amended LAC 31: III.711 as follows:

Title 31

ELECTIONS AND REGISTRATION

Part III. Procurement

Chapter 7. Procurement of Voting Machine Storage and Drayage Services

Subchapter B. Competitive Sealed Bidding

§711. Invitation for Bids, Public Notice, and Bid Opening

A: All contracts for the storage or for the drayage of voting machines shall be awarded by competitive sealed bidding on a parish-by-parish basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:21, R.S. 18:1371, R.S. 39:1594, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17:595 (June 1991), LR 19: (February 1993).

Jerry M. Fowler
Commissioner

RULE

Department of Elections and Registration Commissioner of Elections

Voting Equipment Procurement and Certification (LAC 31:III.Chapter 9)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 18:1353(C), R.S. 18:1361, and R.S. 36:662, the commissioner of the Department of Elections and Registration has adopted the following rule:

Title 31

ELECTIONS

Part III. Procurement

Chapter 9. Procurement and Certification of Voting Equipment

Subchapter A. Competitive Sealed Bidding

§901. Invitation for Bids, Public Notice, and Bid Opening

A. All voting machines used in the state of Louisiana shall be purchased by the commissioner of elections on the basis of public bids and in accordance with the Louisiana Procurement Code contained in Chapter 17 of Title 39 of the Louisiana Revised Statutes of 1959. All bids will be advertized in the official journal of the state of Louisiana in accordance with all applicable statutes and rules.

B. Machines bid in Louisiana must be certified in accordance with the provisions of R.S. 18:1361(A).

C. In accordance with R.S. 18:1361(B), bids on machines that have been certified for use in Louisiana will be considered for purchase and subsequent use.

D. The bids will be opened in public session on the date announced in the bid offering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1353(C), R.S. 18:1361, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 19: (February 1993).

§903. Certification of Voting Equipment

A. All mechanical voting machines currently in use in Louisiana and purchased prior to the adoption of these rules shall be considered certified.

B. Voting equipment offered for sale in Louisiana shall be certified according to procedures established in R.S. 18:1361.

C. The commissioner of the Department of Elections and Registration shall establish policies that shall set standards for all electronic voting equipment to be used in the state of Louisiana.

1. The standards shall conform to the requirements of R.S. 18:1355 and R.S. 18:1399 and the requirements and needs of the Louisiana voting public.

2. All certificates, together with any relevant reports, drawings, and photographs, for electronic equipment shall be public record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1353(C), R.S. 18:1355, R.S. 18:1361, R.S. 18:1399, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 19: (February 1993).

Jerry M. Fowler
Commissioner

RULE

Department of Environmental Quality Air Quality and Radiation Protection

Permit Procedures—Emissions from Nonattainment Areas (AQ-66)(LAC 33:III.504)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2054 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III.502, 505, and 509, (AQ66).

This rule contains the changes to new sources review permitting procedures as mandated by the 1990 amendments to the Clean Air Act.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

A. Applicability. The provisions of this Section apply to the construction of any new major stationary source or to any major modification at a major stationary source, as defined herein, provided such source or modification will be located within a nonattainment area so designated pursuant to Section 107 of the federal Clean Air Act, and will emit a regulated pollutant for which it is major and for which the area is designated nonattainment.

1. For an area which is designated marginal, moderate, serious or severe nonattainment for ozone, volatile organic compounds and nitrogen oxides are the regulated pollutants under this Section. For an area which is designated incomplete data or transitional nonattainment for ozone, volatile organic compounds is the regulated pollutant under this Section.

2. The potential to emit of a stationary source shall be compared to the major stationary source threshold values listed in Table 2 to determine whether the source is major.

3. The emissions increase which would result from a proposed modification, without regard to project decreases, shall be compared to the trigger values listed in Table 2 to determine whether a calculation of the net emissions increase over the contemporaneous period must be performed.

4. The net emissions increase shall be compared to the significant net emissions increase values listed in Table 2 to determine whether a nonattainment new source review must be performed.

B. Source Obligation

1. The requirements of this Section shall apply as though construction had not yet commenced at the time that a source or modification becomes a major source or major modification solely due to a relaxation in any enforceable limitation established after August 7, 1980.

2. The issuance of a permit by the department shall not relieve any owner or operator of the responsibility to comply with the provisions of the Louisiana Air Control Law, any applicable regulations of the department, and any other requirements under local, state, or federal law.

3. Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. For a phased construction project, each phase must commence construction within 18 months of the projected and approved commencement date. The administrative authority may extend the 18-month period upon a satisfactory showing that an extension is justified.

4. For phased construction projects, the determination of the lowest achievable emission rate (LAER) shall be reviewed and modified as appropriate at the latest reasonable time but no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of the LAER.

5. If the owner or operator, who previously had been issued a permit under this regulation, applies for an extension as provided for under Subsection B.3 of this Section, and the new proposed date of construction is greater than 18 months from the date that the permit would become invalid, the determination of the LAER shall be reviewed and modified as appropriate before such an extension is granted. At such time, the owner or operator may be required to demonstrate the adequacy of any previous determination of the LAER.

C. Source Information. The owner or operator of a proposed major stationary source or major modification shall submit all information necessary to perform any analysis or make any determination required under this regulation. Information shall include, but is not limited to:

1. a description of the nature, location, design capacity, and typical operating schedule of the major stationary source or major modification, including specifications and drawings showing the design and plant layout;

2. a detailed schedule for construction of the major stationary source or major modification; and

3. a detailed description of the planned system of emission controls to be implemented, emission estimates, and other information necessary to demonstrate that the LAER or any other applicable limitation will be maintained.

D. Nonattainment New Source Review Source Requirements. Prior to constructing any new major stationary source or major modification a permit shall be obtained from the Louisiana Department of Environmental Quality in accordance with the requirements of this Section. In order for a permit to be granted, all of the following conditions shall be met:

1. All existing stationary sources owned or operated by the applicant (or any entity controlling, controlled by, or under common control with the applicant) in this state shall be in compliance with all applicable state and federal emission limitations and standards, the Federal Clean Air Act, and all conditions in a state or federally enforceable permit, or schedules for compliance.

2. The major stationary source or major modification shall be designed such that the LAER will be met and maintained for each pollutant emitted which is subject to this regulation. The LAER must be applied to each new emissions unit and to each existing emissions unit at which an emissions increase will occur as the result of the proposed modification.

3. For any new major stationary source or major modification pursuant to this Section, it shall be assured that the total tonnage of the emissions increase which would result from the proposed construction or modification shall be offset by an equal or greater reduction as applicable, in the actual emissions of the regulated pollutant from the same or other sources pursuant to Subsection F.9 of this Section. A higher level of offset reduction may be required in order to demonstrate that a net air quality benefit will occur.

4. Emission offsets shall provide net air quality benefit, in accordance with offset ratios listed in Table 2, in the area where the national ambient air quality standard for that pollutant is violated.

5. The proposed major stationary source or major modification will meet all applicable emission requirements in the Louisiana State Implementation Plan (SIP), any applicable new source performance standard in 40 CFR Part 60, and any national emission standard for hazardous air pollutants in 40 CFR Part 61.

6. As a condition for issuing a permit to construct a major stationary source or major modification in a nonattainment area, the public record must contain an analysis, provided by the applicant, of alternate sites, sizes, production processes and environmental control techniques and demonstrate that the benefits of locating the source in a nonattainment area significantly outweigh the environmental and social costs imposed.

7. The administrative authority shall allow a source to offset, by alternative or innovative means, emission increases from rocket engine and motor firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the following conditions:

a. Any modification proposed is solely for the purpose of expanding the testing of rocket engines or motors at an existing source that is permitted to test such engines on the date of enactment of this Subsection.

b. The source demonstrates to the satisfaction of the administrative authority that it has used all reasonable means to obtain and utilize offsets, as determined on an annual basis, for the emissions increases beyond allowable levels, that all available offsets are being used, and that sufficient offsets are not available to the source.

c. The source has obtained a written finding from the Department of Defense, Department of Transportation, National Aeronautics and Space Administration or other appropriate federal agency, that the testing of rocket motors or

engines at the facility is required for a program essential to the national security.

d. The source will comply with an alternative measure, imposed by the administrative authority, designed to offset any emission increases beyond permitted levels not directly offset by the source. In lieu of imposing any alternative offset measures, the administrative authority may impose an emissions fee to be paid to such authority of a state which shall be an amount no greater than 1.5 times the average cost of stationary source control measures adopted in that area during the previous three years. The administrative authority shall utilize the fees in a manner that maximizes the emission reductions in that area.

E. Additional Requirements for Sources Impacting Mandatory Federal Class I Areas

1. The department shall transmit to the administrator and any affected federal land manager a copy of each permit application and any information relevant to any proposed major stationary source or major modification which may have an impact on visibility in any mandatory federal Class I area. Relevant information will include an analysis of the proposed source's anticipated impacts on visibility in the federal Class I area. The application shall be transmitted within 30 days of receipt by the department and at least 60 days prior to any public hearing on the application. Additionally, the department shall notify any affected federal land manager within 30 days from the date the department receives a request for a pre-application meeting from a proposed source subject to this regulation. The department shall consult with the affected federal land manager prior to making a determination of completeness for any such permit application. The department shall also provide the federal land manager and the administrator with a copy of the preliminary determination on the permit application and shall make available to them any materials used in making that determination.

2. The owner or operator of any proposed major stationary source or major modification which may have an impact on visibility in a mandatory federal Class I area shall include in the permit application an analysis of the anticipated impacts on visibility in such areas.

3. The department may require monitoring of visibility in any mandatory federal Class I area where the department determines an adverse impact on visibility may occur due to the operations of the proposed new major stationary source or major modification. Such monitoring shall be conducted following procedures approved by the department and subject to the following conditions:

a. visibility monitoring methods specified by the department shall be reasonably available and not require any research and development; and

b. both preconstruction and post construction visibility monitoring may be required. In each case, the duration of such monitoring shall not exceed one year.

4. The department shall consider any analysis with respect to visibility impacts provided by the federal land manager if it is received within 30 days from the date a complete application is given to the federal land manager. In any case where the department disagrees with the federal land

manager's analysis, the department shall either explain its decision to the federal land manager or give notice as to where the explanation can be obtained. In the case where the department disagrees with the federal land manager's analysis, the department will also explain its decision or give notice to the public by means of an advertisement in a newspaper of general circulation in the area in which the proposed source would be constructed as to where the decision can be obtained.

5. In making its determination as to whether or not to issue a permit, the department shall ensure that the source's emissions will be consistent with making progress toward the national visibility goal of preventing any future impairment of visibility in mandatory federal Class I areas. The department may take into account the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the useful life of the source.

F. Emission Offsets. All emission offsets approved by the department shall meet the following criteria:

1. All emission reductions claimed as offset credit shall be from decreases of the same pollutant or pollutant class (e.g., VOC) for which the offset is required. Interpollutant trading, for example using a NO_x credit to offset a VOC emission increase, is not allowed.

2. All emission reductions claimed as offset credit must have occurred later than the date upon which the area was designated nonattainment.

3. All emission reductions claimed as offset credit shall be federally enforceable prior to commencement of construction of the proposed new source or major modification. All emission reductions claimed as offset credit shall occur prior to or concurrent with the start of operation of the proposed major stationary source.

4. Emission reductions claimed as offset credit shall be sufficient to ensure Reasonable Further Progress (RFP), as determined by the administrative authority.

5. Offset credit for any emission reduction can be claimed only to the extent that the department or the United States Environmental Protection Agency (USEPA) has not relied on it in previously issuing any permit or in demonstrating attainment or reasonable further progress.

6. The emission limit for determining emission offset credit involving an existing fuel combustion source shall be the most stringent emission standard which is allowable under the applicable regulation for this major stationary source for the type of fuel being burned at the time the permit application is filed. If the existing source commits to switch to a cleaner fuel, emission offset credit based on the difference between the allowable emissions of the fuels involved shall be acceptable only if an alternative control measure, which would achieve the same degree of emission reductions should the source switch back to a fuel which produces more pollution, is specified in a permit issued by the department.

7. The owner or operator desiring to utilize emission reductions as an offset shall submit to the department the following information:

a. a detailed description of the process to be controlled and the control technology to be used;

b. emission calculations showing the types and amounts

of actual emissions to be reduced; and

c. the effective date of the reduction.

8. Emissions reductions achieved by shutting down an existing source or curtailing production or operating hours below baseline levels may be generally credited if such reductions are permanent, quantifiable, federally enforceable, and in accordance with the State Implementation Plan (SIP).

9. Emission offsets shall be obtained from the same source or other sources in the same nonattainment area, except that such emission reductions may be obtained from a source in another nonattainment area if:

a. the other area has an equal or higher nonattainment classification than the area in which the major stationary source is located; and

b. emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the proposed new or modified major stationary source would construct.

10. Emission reductions otherwise required by the Federal Clean Air Act or by state regulations shall not be credited for purposes of satisfying the offset requirement. Incidental emission reductions which are not otherwise required by the Act or by state regulations may be creditable as offsets.

G. Permit Procedures, Public Participation and Notification

1. The department shall notify all applicants within 60 days (14 days for applications relating to oil and gas wells and pipelines) as to the completeness of the application or of any deficiency in the application or information submitted. In the event of such a deficiency, the date that an application is ruled complete shall be the date on which the department received all required information.

2. After receipt of a complete application the reviewing authority shall:

a. make a preliminary determination whether construction should be approved, approved with conditions, or disapproved and prepare a draft permit accordingly;

b. make available in the area in which the proposed major stationary source or major modification would be constructed, a copy of all materials that the applicant submitted subject to any claim of confidentiality as provided by law, a copy of the draft permit, and a copy or summary of other materials, if any, considered in making the preliminary determination;

c. notify the public, by advertisement in a newspaper of general circulation in the area in which the proposed major stationary source or major modification would be constructed, of the application, the draft permit, and of the opportunity for comment at a public hearing as well as written public comment. The public comment period shall be for 30 days from the date of such advertisement;

d. send a copy of the notice of public comment to the applicant, the administrator, and any federal land manager or Indian governing body whose lands may be affected by emissions from the source or modification;

e. provide opportunity for a public hearing at the discretion of the administrative authority for interested persons to appear and submit written or oral comments on the air quality impact of the major stationary source and other

appropriate considerations. Public hearings shall be held in the geographic area likely to be impacted by the source;

f. consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. The department shall make all comments available for public inspection;

g. make a final determination whether construction should be approved, approved with conditions, or disapproved; and

h. notify the applicant in writing of the final determination and issue the final permit accordingly.

H. Definitions. The terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

Act—the Federal Clean Air Act, 42 U.S.C. 7401 through 7671(q).

Actual Emissions—the actual rate of emissions of a pollutant from an emissions unit as determined in accordance with the following:

a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal major stationary source operation. A different time period shall be allowed upon a determination by the department that it is more representative of normal major stationary source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

b. For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the allowable emissions of the unit.

Administrator—the administrator of the USEPA or an authorized representative.

Adverse Impact on Visibility—visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the mandatory federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of the visibility impairments and how these factors correlate with:

a. times of visitor use of the mandatory federal Class I area; and

b. the frequency and timing of natural conditions that reduce visibility.

This term does not include effects on integral vista as defined at 40 CFR 51.301, Definitions.

Allowable Emissions—the emissions rate of a major stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

a. the applicable standard set forth in 40 CFR Part 60 or 61;

b. any applicable State Implementation Plan emissions limitation including those with a future compliance date; or

c. the emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

Begin Actual Construction—initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building support and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

Building, Structure, Facility, or Installation—all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, or are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

Commence—as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

a. begun, or caused to begin, a continuous program of actual on-site construction of the major stationary source, to be completed within a reasonable time; or

b. entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the major stationary source to be completed within a reasonable time.

Construction—any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

Emissions Unit—any part of a major stationary source which emits or would have the potential to emit any regulated pollutant.

Federal Class I Area—any federal land that is classified or reclassified as a "Class I" area pursuant to the Federal Clean Air Act.

Federal Land Manager—with respect to any lands in the United States, the secretary of the department with authority over such lands.

Federally Enforceable—all limitations and conditions which are federally enforceable by the administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within any applicable State Implementation Plan, any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I including 40 CFR 51.165 and 40 CFR 51.166.

Fugitive Emissions—those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

Lowest Achievable Emission Rate—for any source, the more stringent rate of emissions based on the following:

a. the most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of major stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

b. the most stringent emissions limitation which is achieved in practice by such class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified major stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

Major Modification—

a. Any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase, as listed in Table 2, of any regulated pollutant for which the stationary source is already major.

b. Any net emissions increase that is considered significant for volatile organic compounds or oxides of nitrogen shall be considered significant for ozone.

c. A physical change or change in the method of operation shall not include:

i. routine maintenance, repair and replacement;

ii. use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

Major Stationary Source—

a. Any stationary source (including all emission points and units of such source located within a contiguous area and under common control) of air pollutants which emits, or has the potential to emit, any regulated pollutant at or above the threshold values defined in Table 2; or

b. Any physical change that would occur at a stationary source not qualifying under Subparagraph a of this definition as a major stationary source, if the change would constitute a major stationary source by itself.

c. A major stationary source that is major for volatile organic compounds or nitrogen oxides shall be considered major for ozone.

d. A stationary source shall not be a major stationary source due to fugitive emissions, to the extent that they are quantifiable, unless the source belongs to:

i. any category in Table 1; or

ii. any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the Act.

e. A stationary source shall not be a major stationary source due to secondary emissions.

Mandatory Federal Class I Area—those federal lands that are International Parks, National Wilderness areas which exceed 5,000 acres in size, National Memorial Parks which exceed 5,000 acres in size, and National Parks which exceed 6,000 acres in size, and which were in existence on August 7,

1977. These areas may not be redesignated.

Natural Conditions—includes naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

Necessary Preconstruction Approvals or Permits—those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.

Net Emissions Increase—the amount by which the sum of the following exceeds zero.

a. i. Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

ii. any other creditable increases and decreases in actual emissions at the major stationary source over a period including the calendar year of the proposed increase, up to the date on which the proposed increase will occur, and the preceding four consecutive calendar years.

b. An increase or decrease in actual emissions is creditable only if neither the department nor the administrator has relied on it in issuing a permit for the source under this regulation and, for a decrease, the administrator has not relied on it in issuing a permit under 40 CFR 52.21, which permit is in effect when the increase in actual emissions from the particular change occurs.

c. An increase in actual emissions is creditable only to the extent that the new level of allowable emissions exceeds the old level of actual emissions.

d. A decrease in actual emissions is creditable only to the extent that:

i. the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of allowable emissions;

ii. it is federally enforceable at and after the time that actual construction of the particular change begins;

iii. it has not been relied on by the state in demonstrating attainment or reasonable further progress; and

iv. it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

e. An increase that results from a physical change at a major stationary source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

Nonattainment Area—for any air pollutant, an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the administrator to be reliable) to exceed any national ambient air quality standard for such pollutant. Such term includes any area identified under Subparagraphs (A) through (C) of Section 107(d)(1) of the Federal Clean Air Act.

Portable Stationary Source—a source which can be relocated to another operating site with limited dismantling and reassembly.

Potential to Emit—the maximum capacity of a stationary

source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable.

Regulated Pollutant—any air pollutant, the emission or ambient concentration of which is regulated pursuant to the Act.

Secondary Emissions—emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this Section, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Stationary Source—any building, structure, facility, or installation which emits or may emit any regulated pollutant.

Temporary Source—a stationary source which changes its location or ceases to exist within one year from the date of initial start of operations.

Visibility Impairment—any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

Table 1. FUGITIVE EMISSIONS SOURCE CATEGORIES

1. Fossil fuel-fired steam electric plants of more than 250 million Btu/hr heat input
2. Coal cleaning plants (with thermal dryers)
3. Kraft pulp mills
4. Portland cement plants
5. Primary zinc smelters
6. Iron and steel mills
7. Primary aluminum ore reduction plants
8. Primary copper smelters
9. Municipal incinerators capable of charging more than 50 tons of refuse per day
10. Hydrofluoric acid plants
11. Sulfuric acid plants
12. Nitric acid plants
13. Petroleum refineries
14. Lime plants
15. Phosphate rock processing plants
16. Coke oven batteries
17. Sulfur recovery plants
18. Carbon black plants (furnace process)
19. Primary lead plants
20. Fuel conversion plants
21. Sintering plants
22. Secondary metal production plants
23. Chemical process plants
24. Fossil fuel boiler (or combination thereof) totaling more than 250 million Btu/hr heat input
25. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels
26. Taconite ore processing plants
27. Glass fiber processing plants
28. Charcoal production plants

**Table 2
Major Stationary Source/Major Modification
Emission Thresholds**

POLLUTANT	MAJOR STATIONARY SOURCE threshold values tons/year	MAJOR MODIFICATION significant net increase in tons/year	OFFSET RATIO minimum
OZONE		Trigger Values	
VOC/NO _x ¹	100	40 (40) ²	1.10 to 1
Marginal	100	40 (40) ²	1.15 to 1
Moderate	50	25 ³ (5) ⁴	1.20 to 1
Serious	25	25 ³ (5) ⁴	1.30 to 1
Severe			
CO			
Moderate	100	100	> 1.00 to 1
Serious	50	50	> 1.00 to 1
SO ₂	100	40	> 1.00 to 1
PM ₁₀			
Moderate	100	15	> 1.00 to 1
Serious	70	15	> 1.00 to 1
Lead	100	0.6	> 1.00 to 1

¹ VOC and NO_x are considered separately for purposes of determining whether a source is subject to permit requirements. For those parishes which are designated incomplete data or transitional nonattainment for ozone, the new source review rules for a marginal classification apply to sources of VOC but not NO_x.

² Consideration of the net emissions increase will be triggered for any project which would increase emissions by 40 tons or more per year, without regard to any project decreases.

³ For serious and severe ozone nonattainment areas, the increase in emissions of volatile organic compounds or nitrogen oxides resulting from any physical change or change in the method of operation of a stationary source shall be considered significant for purposes of determining the applicability of permit requirements, if the net emissions increase of such air pollutant from the source equals or exceeds 25 tons.

⁴ Consideration of the net emissions increase will be triggered for any project which would increase emissions by five tons or more per year, without regard to any project decreases, or for any project which would result in a 25 ton or more per year cumulative increase in emissions after November 15, 1992, without regard to project decreases.

VOC = volatile organic compound

NO_x = oxides of nitrogen

CO = carbon monoxide

SO₂ = sulfur dioxide

PM₁₀ = particulate matter of less than 10 microns in diameter

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: (February 1993).

James B. Thompson, III
Assistant Secretary

RULE

Department of Environmental Quality Air Quality and Radiation Protection

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

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2054 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that LAC 33:III.919 (AQ60) has been amended.

This rule requires the submittal of emission inventories and the certification of the submittal. The rule defines applicability, minimal data requirements and the requirements for the certification statement.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

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

§919. Emission Inventory

Emission inventory data shall be submitted to the Louisiana Department of Environmental Quality (DEQ) on magnetic media in the format specified by the Air Quality Division. Facilities with less than five point sources, may elect to submit Emission Inventory Coding (EIC) forms in lieu of the magnetic media. Facilities are defined as all emission points, fugitive, area, mobile, under common control on contiguous property. Point source is defined as the point of emission which should have a Source Classification Code. Stationary source is defined as a group of point sources. Detailed instructions are provided on an annual basis for completing and submitting emissions inventories which define requirements applicable to facilities, point sources, area sources and mobile sources.

A. Applicability. The owner or operator of the following facilities in the state of Louisiana shall submit emissions inventories to the Louisiana Department of Environmental Quality.

1. Any facility in an attainment area or unclassified area that has the potential to emit 100 tons per year (TPY) or more of any contaminant [including volatile organic compounds (VOC)] for which a National Ambient Air Quality Standard (NAAQS) has been issued or any facility in an ozone nonattainment area emitting a minimum of 10 tons per year (TPY) volatile organic compounds (VOC), 25 TPY nitrogen oxides (NO_x), or 100 TPY carbon monoxide (CO), or any facility that has the potential to emit ("allowables" in a facility's permit) 50 TPY or more of VOC in an area designated as an ozone adjoining area. The designated ozone nonattainment and adjoining parishes are listed in Table 1. If either VOC or NO_x is emitted at or above the minimum required reporting level, the other pollutant must be included even if it is emitted at levels below the specified cutoffs.

2. Any facility defined as a major stationary source of hazardous air pollutants in Section 112(a)(1) of the Federal Clean Air Act (FCAA).

3. In Louisiana, the following facility classes or categories are exempted: None.

TABLE 1	
OZONE NONATTAINMENT AND ADJOINING PARISHES	
NONATTAINMENT	ADJOINING PARISHES
Ascension-Serious	Acadia
Beauregard-Incomplete Monitoring	Allen
Calcasieu-Marginal	Assumption
East Baton Rouge-Serious	Cameron
Grant-Transition	East Feliciana
Iberville-Serious	Iberia
Jefferson-Transition	Jefferson Davis
Lafayette-Transition	St. Helena
Lafourche-Incomplete Monitoring	St. John the Baptist
Livingston-Serious	St. Landry
Orleans-Transition	St. Martin
Pointe Coupee-Serious	Tangipahoa
St. Bernard-Transition	Vermilion
St. Charles-Transition	Vernon
St. James-Transition	West Feliciana
St. Mary-Transition	
West Baton Rouge-Serious	

B. Types of Inventories

1. Annual Emissions Statement (AES). Stationary sources as identified in Subsection A of this Section, shall submit an Annual Emissions Statement (AES) for all criteria pollutant including VOC and hazardous air pollutants. The AES shall consist of an inventory of actual emissions and allowable (permitted) emissions of VOC, NO_x, CO, sulfur dioxide (SO₂), lead (Pb), and particulate matter of less than 10 microns in diameter (PM₁₀) from stationary sources and emissions of all hazardous air pollutants identified in Section 112(b) of the FCAA, and the certifying statement. Methane, ethane and CFCs are not included in VOCs and are not reportable. The emission inventory may be an initial emission inventory (IEI) for facilities submitting their first emission inventory or an annual emission inventory update (AEIU) for facilities which have previously submitted an emission inventory. For purposes of this Section, the term "actual emission" is the actual rate of emissions (annually and hourly) of a pollutant from an emissions unit for the calendar year or other period of time if requested by the department. Actual emission estimates shall also include fugitive emissions (i.e., waste water treatment; treatment, storage and disposal facilities; etc.) excess emissions occurring during maintenance,

start-ups, shutdowns, upsets, and downtime to parallel the documentation of these events in the emission inventory and must follow emission calculations as identified in Subsection C of this Section. Excess emission is defined as an emission quantity greater than normal operations. Where there is an enforceable document, such as a permit, establishing allowable levels, the AES shall include the allowable emission level as identified in the permit Maximum Allowable Emission Rate Table.

2. **Statewide Annual Emission Inventory Update.** Facilities as identified in Subsection A of this Section shall submit an Annual Emission Inventory Update (AEIU) which consists of actual and allowable emissions from the facility identified in Subsection A.1 of this Section, if any of the following criteria are met:

a. AEIU are not required for any facilities subject to SIP regulation unless a significant change in emission rates has occurred as defined in Subsection B.2.b and d of this Section;

b. any change in the values currently in the emission reporting system for operating conditions including start-ups, shutdowns, or process changes at the source that results in a 5.0 percent or greater increase or reduction in total annual emissions of individual pollutant: VOC, NO_x, CO, SO₂, Pb, or PM₁₀; VOCs that are also Hazardous Air Pollutants are to be viewed as total VOC.

c. a cessation of all production processes and termination of operations at the facility;

d. if no significant changes in emission rates as defined in Subsection B.2.b of this Section, then only the certifying statement is required for annual submittal.

3. **Ozone Nonattainment Area Statement.** Stationary sources in ozone nonattainment areas emitting a minimum of 10 TPY of VOC, 25 TPY of NO_x, or 100 TPY of CO shall submit an annual statement. The statement shall consist of actual annual emissions and typical weekday emissions that occur during the three-month period of greatest or most frequent ozone exceedances as published by the department in the Enforcement and Regulatory Compliance notice that is mailed out monthly from the Division of Legal Affairs and Enforcement. "Typical weekday" emissions are defined as an "average" of two actual daily emissions rates (one at the lowest emission rate and one at the highest emission rate) during a seven-day period.

4. **Special Inventories.** Upon request by the administrative authority any person subject to any rule of the Air Quality Division shall file additional emissions data with the department. The request shall specify a reasonable time for response, which shall not be less than 60 days from receipt of the request.

5. **Minimum Data Requirements.** The minimum data requirements are listed below. Operating and process rate information are for the purposes of information gathering only, and do not constitute permit limits. Subsection A.1 states that submittal of a report of increased emissions above allowable limits under this regulation does not replace the need for compliance with LAC 33:III.505.A which requires a permit request to initiate or increase emissions. Format and submittal requirements will be published annually by the department. Any new or modified data requirements will be

included in the annual requests for updates. Any substantive changes will be established in accordance with the Administrative Procedure Act. The minimum data requirements apply to initial submittals only. Data requirements for updates require only those data elements which have changed to be submitted:

a. **Certifying Statement.** A certifying statement, required by Section 182(a)(3)(B) of the FCAA, is to be signed by the owner(s) or operator(s) and shall accompany each emission inventory to attest that the information contained in the inventory is true and accurate to the best knowledge of the certifying official. The certification shall include the full name, title, signature, date of signature, and telephone number of the certifying official.

b. **Facility Identification Information**

i. full name, physical location, and mailing address of facility;

ii. UTM horizontal and vertical coordinates

iii. SIC code(s).

c. **Operating Information**

i. percentage annual throughput by season. The first season (December-February) will actually encompass a two-year period. (e.g., December 1991 through February 1992). The remaining seasons (March-May, June-August, September-November) represent one calendar year (e.g., 1992);

ii. days per week during the normal operating schedule;

iii. hours per day during the normal operating schedule;

iv. hours per year during the normal operating schedule.

d. **Process Rate Data**

i. annual process rate (annual throughput). The AIRS facility subsystem (AFS) Source Classification Code Table prescribes the units to be used with each source classification code for annual fuel/process rate reporting;

ii. in nonattainment areas, peak ozone season daily process rate. The AIRS facility subsystem Source Classification Code Table prescribes the units to be used with each Source Classification Code for peak ozone season daily process rate reporting.

e. **Control Equipment Information**

i. current primary and secondary AFS control equipment identification codes;

ii. current control equipment efficiency (percent). The actual efficiency should reflect the total control efficiency from all control equipment and include downtime and maintenance degradation. If the actual control efficiency is unavailable, the design efficiency or the control efficiency limit imposed by a permit shall be used.

f. **Emissions Information**

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

- Emissions will be reported as one number;
- ii. AFS estimated emissions method code;
 - iii. calendar year for the emissions;
 - iv. emission factor (if emissions were calculated using an emission factor).

C. Calculations. Actual measurement with continuous emissions monitoring systems (CEMS) is the desired method of calculating emissions from a point source. In lieu of CEMS data, emissions may be calculated using methods found in the most recent edition of the Compilation of Air Pollution Emission Factors (AP-42) or calculations published in Engineering Journals. Calculations published in Engineering Journals should have prior administrative approval (assistant secretary) before use. Annual instructions will list any calculations approved from Engineering Journals.

D. After data processing and inventory update, the department will submit the revised inventory to the facility for final verification and signature. The certified inventory shall then be submitted to DEQ/AQD, within 60 days from the date of receipt of the data from the department.

E. Reporting Requirements. The AES for the 1992 Ozone Nonattainment Area Inventory shall be submitted to the department no later than March 31, 1993 unless otherwise directed. Subsequent AESs and Ozone Nonattainment Area Inventories updates shall contain emissions data from the previous calendar year and shall be due on March 31 of each year unless otherwise directed. Attainment Area Inventory shall be submitted to the department from the previous calendar year no later than March 31 of each year unless otherwise directed.

F. Enforcement. The department reserves the right to initiate formal enforcement actions, under R.S. 30:2025, for failure to submit emissions inventories as required in this Section.

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

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

James B. Thompson, III
Assistant Secretary

RULE

Department of Environmental Quality Air Quality and Radiation Protection

Polychlorinated Dibenzo-p-dioxins and Polychlorinated Dibenzofurans from Stationary Sources (LAC 33:III.6081.C)(AQ56)

(Editor's Note: A portion of the following rules, which appeared on pages 707 through 717 of the July 20, 1992 Louisiana Register, is being republished to correct a typographical error.)

Title 33 ENVIRONMENTAL QUALITY Part III. Air

Chapter 60. Division's Source Test Manual §6081. Method 23-Determination of Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans from Stationary Sources

C. Reagents

2. Sample recovery

- a. Acetone. Pesticide quality.
- b. Methylene chloride. Pesticide quality.
- c. Toluene. Pesticide quality.

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 18:707 (July 1992), repromulgated LR 19: (February 1993).

James B. Thompson
Assistant Secretary

RULE

Department of Environmental Quality Office of Solid and Hazardous Waste

Land Ban Petition (HW37)(LAC 33:V.2242)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2080 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Hazardous Waste Division Regulations, LAC 33:V.Chapter 22, (HW37).

The current language contained within LAC 33:V.2242.W limits the time for departmental review to a one-year variance beyond the statutory deadline of June 1, 1992. Therefore, all exemption petitions must be reviewed, evaluated, and granted or denied by June 1, 1993. This deadline cannot be met so the following rule will extend this deadline to June 1, 1995 to provide the department ample time to make a technically sound decision on all of the exemption petitions.

LAC 33:V.2242.S is being revised to reflect the department's authority to revoke an approved exemption petition if the five-year review of waste reduction analyses or injection alternatives shows that the basis for the initial approval of the petition is no longer valid.

LAC 33:V.2242.U is being corrected to provide clarification and to reflect exemption petition criteria for hazardous waste injection instead of the present language which applies only to surface facilities.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality -
Hazardous Waste

Chapter 22. Prohibitions on Land Disposal
§2242. Exemptions to Allow Land Disposal of a
Prohibited Waste by Deep Well Injections

* * *

S. Termination of an Approved Petition

1. The administrative authority may terminate an exemption granted under this Section for the following causes:

* * *

c. a determination that new information shows that the basis for approval of the petition is no longer valid.

d. should a petition be terminated pursuant to this Section for the reason that it has been determined that a technologically and economically feasible alternative to underground injection exists, the administrative authority may provide for a compliance schedule authorizing continued injection for the amount of time reasonably necessary to construct and/or implement such alternative.

* * *

U. Term of the Exemption

1. The term of an exemption granted under this Section shall be a maximum of five years from the date of approval.

2. The administrative authority may re-issue an exemption every five years after the initial petition approval, based on the submittal and review of all demonstrations stipulated in LAC 33:V.2242.C and Z.

3. At least once every 10 years, the administrative authority will require re-issuance of the exemptions based on a full technical review of each petition. The department will coordinate the timing of the review with the Department of Natural Resources (DNR) so that the petition review will coincide with DNR's UIC re-permitting review process.

4. The term of the exemption granted shall expire under the following conditions:

- a. upon the revocation or denial of a Department of Natural Resources final permit; or
- b. upon the termination of an EPA exemption; or
- c. when the volume limit of waste to be land disposed during the term of petition is reached.

5. The permittee shall submit a request for reissuance of the exemption at least 180 days prior to the end of the term. If the applicant submits a timely and technically complete application, and the administrative authority, through no fault of the applicant, fails to act on the application for reissuance on or before the expiration date of the existing exemption, the permittee may, with the written approval of the administrative authority, continue to operate under the terms and conditions of the existing exemption which shall remain in effect until final action on the application is taken by the administrative authority.

* * *

W. During the petition review process, the applicant is required to comply with all prohibitions on land disposal under this Chapter, unless a petition for an exemption has been approved by the EPA, and the administrative authority grants

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

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 15:1067 (December 1989), LR 16:221 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 19: (February 1993).

James B. Thompson, III
Assistant Secretary

RULE

Department of Environmental Quality
Office of Solid and Hazardous Waste

Solid Waste (SW05)(LAC 33:VII.Chapters 1-11)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2001 et seq., particularly R.S. 30:2154 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Solid Waste Division Regulations, LAC 33:VII.Subpart 1.Chapters 1-11, (Log SW05).

These regulations extensively revise the Solid Waste Regulations (LAC 33:VII.Subpart 1). These amendments include permitting requirements for composting facilities, woodwaste landfills and construction demolition-debris landfills. They provide procedural transition for facilities and applications currently in the program to meet the proposed regulations; and revise design criteria for liner systems, leachate collection and removal systems, and gas monitoring systems. These regulations incorporate the federal Subtitle D regulations, incorporation of which is required before Louisiana can become an approved state by EPA.

The full text of this regulation is available at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804 (504)342-5015.

James B. Thompson, III
Assistant Secretary

RULE

Office of the Governor Division of Administration

Louisiana Community Development Block Grant LCDBG Program (FY 1993 Final Statement)

I. Program Goals and Objectives

The LCDBG Program, as its primary objective, provides grants to units of general local government in nonentitlement areas for the development of viable communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Consistent with this objective, not less than 70 percent of the aggregate of fund expenditures shall be for activities that benefit low and moderate income persons.

Each activity funded must meet one of the following two national objectives:

A. Principal benefit (at least 60 percent) to low/moderate income persons.

B. Elimination or prevention of slums and blight. In order to justify that the proposed activity meets this objective, the following must be met. An area must be delineated by the grantee which:

1. meets the definition of slums and blight as defined in Act 590 of the 1970 Parish Redevelopment Act, Section Q-8 (See Appendix 1); and

2. contains a substantial number of deteriorating or dilapidated buildings or public improvements throughout the area delineated.

The grantee must describe in the application the area boundaries and the conditions of the area at the time of its designation and how the proposed activity will eliminate the conditions which qualify the area as slums/blight. If an applicant plans to request funds for an activity claiming that the activity addresses the slums/blight objective, the state must be contacted for the specific requirements for this determination/qualification prior to application submittal.

To accomplish these national objectives, the state has established the following goals:

A. strengthen community economic development through the creation of jobs, stimulation of private investment, and community revitalization, principally for low and moderate income persons,

B. benefit low and moderate income persons,

C. eliminate or aid in the prevention of slums or blight, or

D. provide for other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.

II. General

A. Application Process. This statement sets forth the policies and procedures for the distribution of LCDBG funds. Grants will be awarded to eligible applicants for eligible

activities based on a competitive selection process to the extent that funds are available.

The state shall establish deadlines for submitting applications and notify all eligible applicants through a direct mailing. The applications submitted for FY 1992 funds for housing and public facilities were rated and ranked and funded to the extent that monies were available. The ranking under the FY 1992 program will also be used to determine the grants selected for funding under the FY 1993 LCDBG Program. In other words, the top ranked applications, to the extent that monies were available, were funded under the FY 1992 Program; the next highest ranked applications will be funded under the FY 1993 Program to the extent that monies are available. Only one application for housing or public facilities could be submitted for FY 1992 funds (with the exception noted under II. G.); that same application will be considered for FY 1993 funds. No new applications for housing and public facilities will be accepted in FY 1993. Only new applications for economic development and demonstrated needs funds will be accepted for FY 1993. Economic development applications and demonstrated needs applications will be accepted on a continual basis within the time frames designated by the state.

B. Eligible Applicants. Eligible applicants are units of general local government, that is, municipalities and parishes, excluding the following areas: Alexandria (depending on eligibility status which will be determined by the U.S. Department of Housing and Urban Development), Baton Rouge, Bossier City, Terrebonne Parish Consolidated Government, Jefferson Parish (including Grand Isle, Gretna, Harahan, Jean Lafitte, and Westwego), Kenner, Lafayette, Lake Charles, Monroe, New Orleans, Shreveport, Slidell, and Thibodaux. Each eligible applicant may only submit an application(s) on its own behalf.

In general and in most instances, the applicant for a particular project will be determined by (will be synonymous with) the location of the potential beneficiaries of that project. There may be instances, however, in which the potential beneficiaries reside within the jurisdiction of more than one local governing body. In those circumstances, the following specific rules will apply.

1. If the proposed project will service beneficiaries that reside in two or more units of general local government and more than 51 percent of those beneficiaries are located within the jurisdiction of one of those units, the appropriate applicant would be the unit of government in which more than 51 percent of the beneficiaries reside. Only the applicant, not the other units of government involved, for this type of project will have to meet the threshold criteria to be eligible for funding. The applicant will have to enter into a cooperation agreement with the other unit(s) of government involved.

2. If the proposed project will serve beneficiaries that reside in more than one unit of general local government and no more than 51 percent of the beneficiaries are located within the jurisdiction of one of those units, the state will consider this as a joint or multi-jurisdictional application. Such an application will require a meeting with the state's Office of Community Development within the Division of Administration prior to submitting the application. The purpose of that meeting will be to determine the appropriate

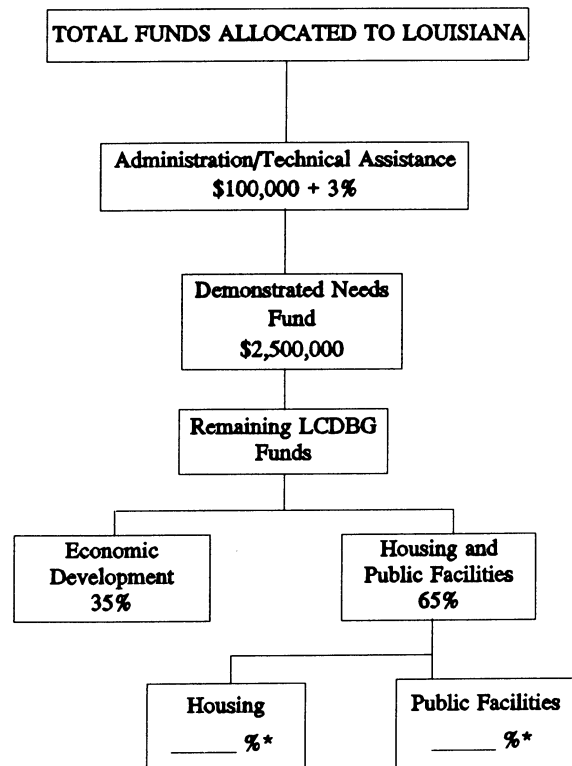
applicant and to explain all of the steps that must be taken by all units of local government involved in the application. All local governing bodies involved in this application must be eligible according to the threshold criteria. The designated applicant (one unit of government) would apply for the grant and act as the representative for the other participating units. Although each jurisdiction would have to make the required certifications, the designated applicant would be responsible for ensuring that the approved activities would be carried out in accordance with all applicable state and federal requirements. To meet the citizen participation requirements for a multi-jurisdictional application, each unit of government involved would have to hold the public hearings and publish the notices required for an application. The application would also have to contain individual sets of assurances signed by each local governing body involved. The designated applicant would also have to enter into a legally binding cooperation agreement with each local governing body stating that all appropriate requirements of the Housing and Community Development Act of 1974, as amended, will be complied with; those specific requirements will be discussed during the pre-application meeting with the State's Office of Community Development within the division. A copy of the cooperation agreement must be included in the application.

C. Eligible Activities. An activity may be assisted in whole or in part with LCDBG funds if the activity is defined as eligible under Section 105(a) of Title I of the Housing and Community Development Act of 1974, as amended, and as provided in Appendix 2. For application purposes, eligible activities are grouped into the program areas of housing, public facilities, economic development or demonstrated needs.

D. Types of Grants. The state will only accept applications for single purpose grants. A single purpose grant provides funds for one need (water or sewer or housing, et cetera) consisting of an activity which may be supported by auxiliary activities. Single purpose economic development grants are for one project, consisting of one or more activities.

E. Distribution of Funds. A total of \$34,048,000 (subject to federal allocation) in funds will be available for the FY 1993 LCDBG Program. Figure 1 shows how the total funds will be allocated among the various program categories.

Figure 1



*The percentage distribution between the housing and public facilities program categories will be based upon the number of applications received and amount requested in each category. Half of the funds will be distributed based on percentage of applications received in each category and half on the basis of amount of funds requested in each category. However, the dollar amount allocated for housing will be no more than fifteen percent of the total funds available for housing and public facilities. Subcategories will be established under public facilities based upon the program priorities (sewer systems for collection and/or treatment, water systems addressing potable water and water systems primarily for fire protection purposes) and other type projects. The dollar amount for each of these subcategories will be distributed based upon the percentage of applications submitted and amount of funds requested in each subcategory.

Of the total CDBG funds allocated to the state, up to \$100,000 plus three percent will be used by the state to administer the program and to provide technical assistance.

In addition, \$2,500,000 will be set aside for the Demonstrated Needs Fund.

Since the creation and retention of permanent jobs is so critical to the economy of the state of Louisiana, up to 35 percent of the remaining LCDBG funds will be allocated specifically for economic development type projects. The 35 percent allocation will be reduced by the amount of funds

available for use in the economic development revolving loan fund. That reduction in funds allocated for economic development would then be allocated to the amount provided for housing and public facilities.

Public facilities and housing applications will be funded with the remaining LCDBG funds. This fund will be divided into two program categories as identified in Figure 1; the exact distribution of these funds will be based upon the number of applications received and amount of funds requested in each program category as established under the FY 1992 LCDBG Program. Half of the money will be allocated based on the number of applications received in each category and half based on the amount of funds requested in each category with a maximum of 15 percent of the funds allocated to housing. Within the maximum 15 percent allocated for housing, an award of up to \$500,000 will be made for an "innovative housing" program. The public facilities category will be allocated in the same manner, by number and dollar amount of applications for sewer (collection and/or treatment), water (potable water and fire protection), and other type projects.

Five months following the beginning date of the state's program year with HUD, the status of the monies originally allocated for economic development (35 percent minus the amount of the economic development revolving monies) will be evaluated. At that time, any monies in excess of half of the original allocation which have not yet been applied for under the economic development category will then be transferred to the current program year's public facilities category to fund the project(s) with the highest score that was not initially funded. Ten months following the beginning date of the state's program year with HUD, all monies not yet applied for which remain in the original allocation for economic development will be transferred to the current program year's public facilities category to continue to fund the highest ranked projects(s) not already funded. In this latter instance, if a determination is made that a particular application for economic development funds will not be funded, the funds reserved for that application will be immediately transferred to the current program year's public facilities category.

F. Size of Grants

1. Ceilings. The state has established a funding ceiling of \$550,000 for housing grants, \$500,000 for an innovative housing grant, \$600,000 for public facilities grants with the exception of sewer grants which have a funding ceiling of \$750,000, and \$225,000 for demonstrated needs grants. The state has established different and distinct funding ceilings for economic development projects involving the creation of a new business and for economic development projects involving the expansion of an existing business. If the project is requesting funds for the creation of a new business, no more than \$635,000 may be requested for a loan and no more than \$635,000 may be requested for a grant to the local governing body for infrastructure improvements; if the project involves both a loan and a grant, then a combined funding ceiling of \$635,000 will be imposed. If the project is requesting funds for the expansion of an existing business, no specific funding ceiling is imposed for the loan portion of the project; the state, however, reserves the right to exercise its discretion in

imposing a funding ceiling available per project. If the project is requesting funds for the expansion of an existing business, no more than \$1,035,000 may be requested for a grant to the local governing body for infrastructure improvements. There is no combined funding ceiling established for a project for the expansion of an existing business which involves both a loan and a grant. Regardless as to whether or not the project involves a new business or an existing business, no more than \$335,000 may be requested for the acquisition, construction or rehabilitation of buildings and improvements (including parking lots) by the local governing body as a grant; no funding ceiling is imposed when monies are requested as a loan for the acquisition, construction, or rehabilitation of buildings and improvements (including parking lots) if the project involves the expansion of an existing business. No funding ceiling is imposed for economic development projects involving a loan for the expansion of an existing business; however, the state reserves the right to exercise its discretion in imposing funding ceilings available per project.

Within the ceiling amounts the state allows applicants to request funds for administrative costs with the following limitations. Administrative funds for housing programs cannot exceed 13 percent of the estimated housing costs. Each local governing body will be allowed a maximum of \$35,000 in LCDBG funds for administrative costs on public facilities, demonstrated needs, and economic development projects. The local governing body may use no more than 90 percent of the monies allowed for administration for administrative consulting services. In all instances, the local governing body must retain at least 10 percent of the funds allowed for administration to cover its costs of administering the LCDBG Program; such costs on the local governmental level include but are not limited to audit fees, advertising and publication fees, staff time, workshop expenses, et cetera. If, after a project has been funded, the scope of the project changes significantly, the state will make a determination as to the actual amount which will be allowed for administrative costs; this determination will be made on a case-by-case basis.

Engineering fees may also be requested within the ceiling amounts; the funds allowed by the state will not exceed those established by the American Society of Civil Engineers and/or Farmer's Home Administration. If, after a project has been funded, the scope of the project changes significantly, the state will make a determination as to the actual amount which will be allowed for engineering costs; this determination will be made on a case-by-case basis.

2. Individual Grant Amounts. Grants will be provided in amounts commensurate with the applicant's program. In determining appropriate grant amounts for each application, the state shall consider an applicant's need, proposed activities, and ability to carry out the proposed program.

G. Restrictions on Applying for Grants

1. With the exception of parishes which have an unincorporated population of more than 25,000, each eligible applicant could apply for one housing or public facilities grant under the FY 1992 LCDBG Program; that application will also be considered for funding under the FY 1993 LCDBG Program. Those parishes which had an unincorporated population of more than 25,000 could submit a maximum of

two single purpose applications for housing or public facilities with a combined maximum request of \$1.2 million; the individual amounts requested per application could not exceed the funding ceiling amount for that particular type of application as identified in Section II. F. 1. According to information obtained from the Louisiana Census Data Center as provided by the U.S. Bureau of the Census, those parishes included: Acadia, Ascension, Bossier, Caddo, Calcasieu, Iberia, Lafayette, Lafourche, Livingston, Ouachita, Plaquemines, Rapides, St. Bernard, St. Charles, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, and Vernon.

Any eligible applicant may apply for an economic development project, demonstrated needs grant, or innovative housing grant, even those applicants previously funded under the housing and public facilities components. The number of demonstrated needs grants which an eligible applicant may receive during each program year is limited to one.

2. Capacity and performance: threshold considerations for grant approval. No grant will be made to an applicant that lacks the capacity to undertake the proposed program. In addition, applicants which have previously participated in the Community Development Block Grant Program must have performed adequately. Performance and capacity determinations for FY 1993 will be made as of the date the state receives its executed FY 1993 grant agreement from HUD. In determining whether an applicant has performed adequately, the state will examine the applicant's performance as follows.

In order to be eligible for a grant award in FY 1993, the following thresholds must have been met:

(a) Units of general local government will not be eligible to receive funding unless past LCDBG programs (FY 1984, FY 1985, FY 1986, FY 1987, FY 1988, FY 1989, FY 1990, FY 1991, and FY 1992) awarded by the state have been conditionally closed-out with the following exceptions.

For recipients of economic development awards under the FY 1989, FY 1990, and FY 1991 LCDBG Programs and for recipients of demonstrated needs awards under the FY 1992 LCDBG Program, the state will, at its own discretion on a case-by-case basis, make a determination on the recipient's performance. If the state makes the determination that the recipient has performed adequately, the state may deem that recipient also eligible for FY 1993 funding.

Those parishes with an unincorporated population of more than 25,000 (identified in Section II. G. 1) that may have received a grant award under the FY 1992 LCDBG Program will also be eligible for an FY 1993 award if the state makes the determination that the recipient has thus far performed adequately.

(b) Audit and monitoring findings made by the state or HUD have been cleared.

(c) All required reports, documents, and/or requested data have been submitted within the time frames established by the state.

(d) Any funds due to HUD or the state have been repaid or a satisfactory arrangement for repayment of the debt has been made and payments are current.

All applications were rated upon receipt. Any applications that were determined to be ineligible for FY 1992 funding will be re-evaluated for eligibility for FY 1993 funding.

The state is not responsible for notifying applicants as to their performance status.

The capacity and performance thresholds do not apply to applicants for economic development, demonstrated needs, and innovative housing funds with the exception that no award will be made to a previous recipient who owes money to the state unless an arrangement for repayment of the debt has been made and payments are current.

H. Definitions. For the purpose of the LCDBG Program or as used in the regulations, the term:

Auxiliary activity — a minor activity which directly supports a major activity in one program area (housing, public facilities). Note: The state will make the final determination of the validity (soundness) of such auxiliary activities in line with the program intent and funding levels and delete if deemed appropriate.

Division — refers to the Division of Administration which is the administering agency for the LCDBG Program for the state.

Low/moderate income persons — are defined as those having an income equal to or less than the Section 8 lower income limits as determined by the U. S. Department of Housing and Urban Development. (See Appendices 3 and 4.)

Slums and blight — as defined as in Act 590 of the 1970 Parish Redevelopment Act, Section Q-8. (See Appendix 1.)

Unit of general local government — any municipal or parish government of the state of Louisiana.

III. Method of Selecting Grantees

The state has established selection and rating systems which identify the criteria used in selecting grantees.

A. Data

1. Low and Moderate Income. The low/moderate income limits are defined as being equal to or less than the Section 8 income limits as established by HUD. In order to determine the benefit to low/moderate income persons for a public facility or demonstrated needs project, the applicant must utilize either census data (if available) or conduct a local survey. A local survey must be conducted for housing activities and must involve 100 percent of the total houses within the target area. Local surveys which have been conducted within twelve months prior to the application submittal date will be accepted, provided the survey conforms to current program requirements.

(a) Census Data. If an applicant in a non-metropolitan area chooses to utilize census data rather than conducting a local survey, the higher of either 80 percent of the 1980 median income of the parish or 80 percent of the median income of the entire non-metropolitan area of the state will be utilized to determine the low/moderate income levels. The 1980 annual income limits for low/moderate income persons for each parish are shown in Appendix 4. The FY 1979 median income for non-metropolitan Louisiana was \$15,011; therefore, the non-metropolitan low/moderate income level would amount to \$12,009. The low and moderate income levels for applicants in Metropolitan Statistical Areas (MSAs) will be determined on the basis of the entire MSA.

If 1980 census data on income is available by enumeration district, then the division will calculate the applicant's low/moderate income percentages. The applicant must request this data prior to submittal of the application.

(b) Local Survey. If the applicant chooses to conduct a local survey, the survey sheet in the FY 1992 - FY 1993 application package must be used. Local surveys must be conducted for all housing activities.

When conducting a local survey rather than using 1980 census data, an applicant in a non-metropolitan area will determine the low and moderate income level based on the higher of either 80 percent of the median income of the parish or 80 percent of the median income of the entire non-metropolitan area of the state. The annual income limits for low/moderate income persons for each parish are provided in Appendix 3. The FY 1992 median income for non-metropolitan Louisiana was \$26,100; therefore, the non-metropolitan state low/moderate income level would amount to \$20,900 and the low income limit would be \$13,050. The low and moderate income levels for applicants in Metropolitan Statistical Areas (MSAs) will be determined on the basis of the entire MSA.

If the applicant chooses to determine low/moderate income based on family size, the following sliding scale must be used:

# OF PERSONS IN HOUSEHOLD	% OF PARISH/MSA* MEDIAN INCOME
1	70
2	80
3	90
4	100
5	108
6	116
7	124
8	132
9	140
10	148

For each person in excess of 10, add an additional eight percent.

*MSA = Metropolitan Statistical Area

When a local survey, rather than census data, is used to determine the low/moderate income benefit, a random sample which is representative of the population of the entire target area must be taken. There are several methodologies available to insure that the sample is random and representative. The methodology used must be stated in your application. If you have questions on the methodology to use, you should contact the division for assistance. The appropriate sample size varies with the total number of occupied households in the target area and is determined by using the following formula:

$$n = .9604 \times N \div (.0025N + .9579)$$

Where n = required number of households in sample

Where N = total number of occupied households in target area

If the situation arises where it must be determined as to whether or not the sample taken was indeed random, then standard statistical tests at the appropriate geographical level will be used.

B. Program Objectives. Each activity must address one of the two national objectives previously identified under Section

I. Program Goals and Objectives.

C. Rating Systems. All applications submitted for housing, public facilities, and economic development projects were or will be rated according to the following criteria established for each program category.

Each housing and public facilities application was rated/ranked against all similar activities in the appropriate program category/subcategory.

1. Housing (Total of 100 points)

All housing activities which are funded under the LCDBG Program must be consistent with the state's Comprehensive Housing Affordability Strategy (CHAS), as required in the Cranston-Gonzalez National Affordable Housing Act.

All units which will be rehabilitated or replaced must be occupied by low/moderate income persons. Proof of ownership for owner occupied substandard units targeted for housing assistance must be verified by the applicant through the local clerk of court's office or another method which has been approved by the state prior to the submittal of the application. Also, the number of housing target areas may not exceed two. In delineating the target areas, it must be kept in mind that the boundaries must be coincident with visually recognized boundaries such as streets, streams, canals, et cetera; property lines cannot be used unless they are also coincident with visually recognized boundaries. All houses rehabilitated within the FEMA 100-year floodplain must comply with the community's adopted flood damage prevention ordinance, where applicable.

(a) Program Impact (Maximum Possible Points - 25)

This was determined by dividing the total number of owner occupied units to be rehabilitated and/or replaced plus vacant units to be demolished in the target area by the total number of owner occupied substandard units in need of rehab and/or replacement plus vacant units in need of demolition in the target area.

$$\begin{aligned} &\# \text{ of owner occupied units to be} \\ &\text{rehabilitated and replaced} \\ &+ \# \text{ of vacant units to be} \\ &\underline{\text{demolished inside the target area}} \quad = \text{Raw Score} \\ &\# \text{ of owner occupied substandard units} \\ &\text{including those in need of demolition} \\ &\text{and replacement} \\ &+ \text{vacant units in need of demolition} \\ &\text{inside the target area} \end{aligned}$$

The raw scores were arrayed and the top ranked applicant(s) received 25 points. All other applicants received points based on how they scored relative to that high score:

$$\text{Program Impact Points} = \frac{\text{applicant's score}}{\text{highest score}} \times 25$$

No project will be funded that meets less than 75 percent of the identified need.

Rental units which are occupied by low/moderate income persons are eligible as long as the number of rental units to be treated does not exceed 10 percent of the total owner occupied units proposed for rehab; the rehab of rental units will not

affect the impact score in any way. All units must be brought up to at least the Section 8 Existing Housing Quality Standards and HUD's Cost Effective Energy Conservation Standards.

(b) Needs Assessment (Maximum Possible Points-25)

This was determined by comparing the total number of owner occupied and vacant units to be treated in the target area to the overall needs of the target area.

$$\frac{\# \text{ of owner occupied and vacant units to be treated in target area}}{\# \text{ of units in need of treatment in target area}} = \text{Raw Score}$$

The raw scores were arrayed and the top ranked applicant(s) received 25 points.

$$\text{Needs Assessment} = \frac{\text{applicant's score}}{\text{Points}} \times \frac{25}{\text{highest score}}$$

(c) Project Feasibility (Maximum Possible Points-50)

This was rated based upon the project's cost effectiveness and overall needs of the area including housing as well as infrastructure.

2. Innovative Housing

The state will develop the criteria for evaluating applications for innovative housing and will notify all eligible applicants of such through a direct mailing. These applications will be accepted at a different and separate time from the regular housing applications.

3. Public facilities (Total of 81 Points)

For the purpose of ranking public facilities projects, subcategories were established (sewer systems for collection and/or treatment, water systems addressing potable water, water systems primarily for fire protection and other).

Any public facilities project that is funded must completely remedy existing conditions that violate a state or federal standard established to protect public health and safety.

(a) Benefit to Low/Moderate Income Persons (Maximum Possible Points - 10)

Projects consisting of more than one activity which involve different numbers and percentages of beneficiaries for each activity must specifically identify the numbers and percentages for each activity.

Percent of Low/Moderate Income (Maximum Possible Points - 5)

The percentage of low/moderate income persons benefitting was calculated by dividing the number of low/moderate income persons benefitting (as defined by the state) by the total persons benefitting. Points for percentage of low/mod benefitting were assigned according to the following ranges:

- 90% or more - 5 points
- at least 80% but less than 90% -4 points
- at least 70% but less than 80% -3 points
- at least 60% but less than 70% -2 points
- less than 60% - 0 points

Number of Low/Moderate Income (Maximum Possible Points - 5)

Points for the number of low/moderate income persons benefitting were assigned according to the following ranges:

- 500 or more - 5 points
- 200 to 499 - 4 points
- less than 200 - 3 points

b) Cost Effectiveness (Maximum Possible Points - 20)

Cost estimates per person benefitting were carefully evaluated. The cost per person benefitting was calculated for all projects. All applicants for the same type project (sewer systems for collection and/or treatment, potable water, water for fire protection, and other) were grouped and each of these groups was then grouped by whether the project is for a new system, improvements to an existing system, or both. Once all of these separate groups were established, they were separated into categories based on the number of persons benefitting. An average cost per person benefitting was then determined for each of these categories. Each applicant in a given category was scored relative to the average cost per person figure determined for that given category. An average cost project received 10 points, a project with a lower than average cost per person benefitting received more than 10 points (a maximum of 20), and a project with a higher than average cost per person received fewer than 10 points. The following formula was used to determine the cost effectiveness points for each applicant in each grouping:

$$\text{CE Points} = \frac{\text{Average Cost per Person Benefitted}}{\text{Applicant Cost per Person Benefitted}} \times 10$$

If the calculation yielded more than 20, it was revised downward to the 20 point maximum. This allowed all applications for new sewer systems, sewer system repairs, new water systems, water system repairs, et cetera to be rated against similar type projects. It also allowed those projects benefitting many people and those benefitting few people to be rated against other projects helping a similar number of persons.

(c) Project Severity (Maximum Possible Points-50)

This was rated based upon the severity of the problem and extent of the effect upon the health and welfare of the community. Priority was given to sewer systems for collection and/or treatment and water systems addressing potable water and fire protection.

In assigning points for project severity, the following general criteria was critiqued by the cognizant review agency as determined by the division for the type of project proposed.

Water systems primarily for fire protection purposes - well capacity, reliability of supply, amount of water stored, extent of hydrant coverage or spacing, and water pressure and volume for fire fighting. A comprehensive approach must be taken for the target area as all factors relating to the remedy of fire protection problems will be assessed. If funds were requested for a fire truck, the service area of that truck was also evaluated for availability of water, size of lines, hydrant spacing, et cetera. For example, if a community applied for a fire truck which would serve an area having water lines of an inadequate size, a lower overall rating would be assigned.

Water systems addressing potable water and sewer systems - the existence of conditions in violation of those provisions of the State Sanitary Code that most directly

safeguard public health and the adequacy of the proposed improvements to eliminate such conditions. Compliance with the Environmental Quality Act, size of facility, uses of receiving stream, environmental impact upon receiving stream, and human health impact were also taken into consideration for all projects involving sewerage treatment facilities. The assessment was based upon the problem as documented by DHH and DEQ records, the relative degree of risks to human health posed and the number of persons most directly affected. Problems that were generally attributable to a lack of routine operation and maintenance resulted in a less favorable evaluation. The proposed actions to eliminate verified problems were evaluated in terms of the direct applicability of the solution; superfluous or inadequate solutions resulted in a lowering of the overall rating.

The specific details of the existing problems and proposed project had to be provided so that the reviewing agency could accurately assess the project. A lower assessment of the project could have resulted due to the submittal of incomplete information; in those instances, the reviewing agency will not re-evaluate its assigned score. The re-evaluation of assigned scores will only be allowed in those cases where a mathematical error occurred or when the reviewing agency determines that it made an error in assigning the score.

(d) Use of Local Funds (Maximum Possible Points-1)

Those applicants which injected local funds into project construction received one bonus point. This point was only assigned when the amount of local funds met or exceeded 10 percent of the total construction costs (including contingencies and acquisition but excluding administrative and engineering services costs). The 10 percent calculation did not include any local funds which would be used to pay for any engineering and/or administrative services but did include any local funds which would be used to pay off loans received from other state, federal, or private sources.

To substantiate the availability of local funds, one of the following items was required as a part of the application: a letter from the local governing body stating the specific source and amount of local cash, a line of credit letter from a financial institution such as a bank stating the amount available as a loan, specific evidence of funds to be received from a tax or bond election that was or will be held, or a letter from another funding agency stating that an application for a loan has been received and is currently being considered for funding. Any funds for which the one point was credited must be available for commitment to the project at the time of grant award or the one point will be eliminated from the total score.

4. Economic Development

The economic development program category involves two types of projects: loans to a business/developer and grants to the local governing body. The specific requirements of each type are identified herein and must be adhered to according to type. Although most economic development awards will involve only one type, both types (loan and grant) may be involved in one award.

The economic development loan set aside is to be used to provide loans to businesses for job creation or retention projects. The LCDBG economic development funds go from

the state to the local unit of government to the private developer. A three-way agreement (contract) is signed by these three participants, and other parts of the application are reviewed by them to ensure a complete understanding by the three parties of the planned development, the expected number of jobs to be created or retained, the sources and uses of all funds to be committed to the project, the payback arrangements for all funds borrowed, the security assigned to each loan granting institution or agency, the financial and other reporting requirements of the developer and the local unit of government to the state, and all other obligations of the developer, the local governmental unit and the state.

An application for LCDBG economic development funds may be submitted at any time during the year.

The term "developer" shall mean the corporate entity as well as the individual investors, stockholders, and owners of the applicant business. As an example of the effect of this definition, an LCDBG economic development loan to Company A cannot be used to purchase equipment, land, et cetera from Company B, when both Company A and Company B are substantially owned by one or more of the same individuals.

The state will recoup 100 percent of the payback of LCDBG economic development loans (program income to the state). Lease payments received as a result of LCDBG funds utilized in the construction, acquisition, or rehabilitation of a building shall be charged at a fair market value and shall be considered as program income. If LCDBG funds are utilized in conjunction with other funds for such construction, acquisition, or rehabilitation, the pro-rata share of the lease payment will be considered program income and will be remitted to the state. These program income funds received by the state will be placed in an Economic Development Revolving Loan Fund which will be used to supplement funding for economic development projects. These funds will be subject to the federal regulations regarding use of program income. The interest rate charged on the LCDBG economic development loan depends on the financial and cash flow projections of the applicant business. This rate will be determined in the application review.

In some instances it may be necessary and appropriate for a local unit of government to receive a grant for infrastructure improvements or the acquisition, construction, or rehabilitation of a building needed by a specific developer before his proposed job creation project can be fully implemented. (The term "specific developer" herein relates to a single private business entity that possesses a federal tax identification number.) This economic development grant could be used by the local unit of government to provide sewer, water, and street/road access on public property to the industrial/business site. It cannot be used to acquire, construct, or rehabilitate a building or to create a general industrial park project with the hope that a business client will then be attracted. It must be tied to a specific developer creating a specific number of jobs for low to moderate income people. Although the grant will be tied to a specific developer, all/any other developments that occur within three years after the completion of construction of the infrastructure improvements must also be considered to fall under LCDBG

requirements. Therefore, when preparing the closeout documents, the job creation/retention and low/moderate income figures would be the total of all of the benefitting businesses in aggregate.

It must be a "but for" situation, where the business cannot locate or expand at that site unless the particular infrastructure is provided. The developer must show why this location, which lacks proper infrastructure, must be used instead of another site which already has proper infrastructure. The developer must provide sufficient financial and other statements, projections, et cetera to establish that the business is likely to be successful, and will create the appropriate number of jobs at the site in a specified time frame.

Certain assurances by the developer, related to the timing of his development on the site, will be required. Other agreements between the local governing body and the developer/property holder, relative to public rights of way, et cetera will be required as needed on an individual project basis.

The maximum amount available to the local governing body for an infrastructure or building acquisition, construction, or rehabilitation type project grant is \$10,000 per job created or retained, with a \$1,035,000 limit for infrastructure improvements on any single project (including a building and improvements) or a \$335,000 limit for the acquisition, construction, or rehabilitation of a building and improvements, including parking lots. In those instances where a local governing body has received a grant for the acquisition, construction, or rehabilitation of a building and improvements and the building is sold within 10 years of the purchase date, an amount equal to the sales price (excluding any lease payments previously made to the state) shall be returned to the state. The sales procedure to be followed by the local governing body must be approved in writing by the division prior to the sale.

The following five requirements must be met by all economic development applicants:

A. A firm financial commitment from the private sector will be required upon submission of the application.

For a loan, the private funds/public funds ratio must not be less than 1:1 for manufacturing firms with Standard Industrial Code classifications of 20-39. A private to public ratio for non-manufacturing firms must have a ratio of 2.5:1.

For a grant to the local governing body for infrastructure improvements and/or for the acquisition, construction, or rehabilitation of a building and improvements for economic development, the private funds/public funds ratio for grant funds less than \$500,000 must be 1:1 and for grant funds in excess of \$500,000 must be 2:1. For example, if a local governing body requests \$700,000 as a grant for infrastructure improvements, the private funds/public funds ratio would have to be 1:1 for the first \$500,000 and 2:1 for the remaining \$200,000 requested.

In addition, the state must be assured that non-manufacturing projects will have a net job creation impact on the community and not simply redistribute jobs around the community.

Private funds must be in the form of a developer's cash or loan proceeds. Revenues from the sale of bonds may also be counted if the developer is liable under the terms of the bond

issue. Previously expended funds will not be counted as private funds for the purpose of this program, nor will private funds include any grants from federal, state or other governmental programs, nor any recaptured funds. The value of land, buildings, equipment, et cetera, already owned by the developer and which will be used in the new or expanded operation, will not be considered as private match.

Personal endorsement from all principals of corporations, partnerships, or sole proprietorships shall be required on the LCDBG loan documents. The principals shall: 1) endorse the LCDBG loan to the corporation and 2) guarantee the payment and fulfillment of any obligation of the corporation. These endorsements will be made jointly to the local government and state of Louisiana. Normally, a principal is defined as owning five percent or more of the business.

B. If cost per job created or retained exceeds \$15,000 for a loan to a developer or \$10,000 for a grant to the local governing body, the application will not be considered for funding.

C. A minimum of 10 jobs created or retained is required for LCDBG economic development assistance.

D. A minimum of 60 percent of the employment will be made available to people who at the time of their employment have a family income that is below the low to moderate income limit for the parish where the development occurs (see Appendix 3).

E. The application must include documentation showing that the project is feasible from the management, marketing, financial, and economic standpoints. Management feasibility has to do with the past experience of the developer in managing the type of project described in the application, or other similar managerial experience. Marketing feasibility deals with how well the market for the product has been documented at the application stage - the best case being that the developer has verifiable commitments substantiating the first year's sales projection. A typical market study includes a detailed analysis of competition, the expected geographical sales plan, and letters of intent to buy, specifying quantity and price. Economic feasibility relates to whether or not the developer has realistic projections of revenues and variable costs, such as labor and cost of materials, and whether they are consistent with industry value added comparisons. An assessment will be made of the industry sector performances for the type of industry/business described in the application. Financial feasibility has to do with the ability of the firm to meet all of its financial obligations in the short and long run, determined by a cash flow analysis on the financial history and projections of the business. In analyzing the financial feasibility of a project, the state may suggest alternatives in the timing of expenditures, the amount and proposed use of public and private funds, as well as other financial arrangements proposed in the application.

For an application to be funded, the state must be assured that: the project is credit worthy; there is sufficient developer equity; the LCDBG funds will be efficiently and effectively invested; the maximum amount of private and the minimum amount of public funds will be invested in the project; the project will make an adequate return in the form of public benefits commensurate with the money invested; the state and

the local community will not assume a disproportionate amount of risk in the project; and, the state and the community will receive an adequate security interest proportionate to the LCDBG funds invested in the project.

Default: The local governing body shall be ultimately responsible for repayment of the contract funds which were provided by the state.

The state shall look to the local governing body for repayment of all funds disbursed under this contract and default by the developer shall not be considered as just cause for non-payment by the local governing body. In case of a default by the local governing body in the repayment of contract funds to the state, in accordance with the terms and conditions of the contract, the full sum remitted to the local governing body shall become due and payable to the state upon demand, without the need of putting the local governing body in default.

The state shall deem the local governing body in default, regardless of the fact that the default was precipitated by the Developer, to the extent that the local governing body failed to perform its contractual obligations in good faith.

D. Demonstrated Needs Fund

A \$2.5 million reserve fund will be established to alleviate critical/urgent community needs. The ceiling amount for demonstrated needs projects is \$225,000.

An application cannot be submitted for consideration under this fund if the same application is currently under consideration for funding under any other LCDBG program category.

Subject to the availability of funds, projects that meet the following criteria will be funded:

1. General Eligibility

Proposed activities must be eligible under Section 105 (a) of the Housing and Community Development Act of 1974, as amended (see Appendix 2). These funds will only be awarded, however, to projects involving improvements to existing water, sewer, and gas systems. Fire trucks and firefighting equipment are not eligible for funding under the Demonstrated Needs Fund.

Each proposed activity must address one of the two national objectives.

2. Critical/Urgent Need - Project Severity

Each activity must address a critical/urgent need which can be verified by an appropriate authority, (cognizant state or federal agency), other than the applicant as having developed within six months prior to submittal of the application.

The project evaluation request will be submitted to the appropriate cognizant agency by the applicant. In addition to the stipulation that the critical/urgent need must have developed within six months prior to submittal, the cognizant agency will rate the severity or urgency of the project on a scale of 1 to 10 based upon the same criteria established by the cognizant agency for determining program severity for public facilities projects. Only those projects receiving a rating of nine or ten from the cognizant agency will be fundable.

3. Application Requirements

All items and forms necessary for a regular public facilities application will also be required for demonstrated

needs. An application will not be considered unless all items, including the completed evaluation form from the cognizant agency, are included in the application package.

E. Submission Requirements

Applications shall be submitted to the division on forms provided by the division and shall include the following:

(1) Program Narrative Statement. This shall consist of:

i. Identification of the national objective(s) that the activity will address.

ii. A detailed description of each activity to be carried out with LCDBG assistance. The description of each activity must clearly identify the target area or areas by street names, highway names or numbers for each street serving as a boundary of the target area. The written description must clearly and exactly conform to the designated area or areas on the map(s). A detailed cost estimate is also required for each activity. If the proposed activity is dependent on other funds for completion, the source of funds and the status of the commitment must also be indicated. If the applicant is applying for a public facilities project, the description must specifically describe what means will be taken by the applicant to ensure that adequate revenues will be available to operate and maintain the proposed project; the description must identify the source of and estimated amount of funds that will be generated for this purpose.

iii. A statement describing the impact the activity will have on the problem area selected and on the needs of low and moderate income persons, including information necessary for considering the program impact.

iv. A statement on the percent of funds requested that will benefit low and moderate income persons. The statement should indicate the total number of persons to be served and the number of such persons that meet the definition of low and moderate income.

(2) Map. A map of the local jurisdiction which identifies by project area:

i. census tracts and/or enumeration districts by number;

ii. location of concentrations of minorities, showing number and percent by census tracts and/or enumeration districts;

iii. location of concentrations of low and moderate income persons, showing number and percent by census tracts and/or enumeration districts;

iv. boundaries of areas in which the activities will be concentrated;

v. specific location of each activity.

(3) Program Schedule. Each applicant shall submit, in a format prescribed by the state, a listing of dates for major milestones for each activity to be funded.

(4) Title VI Compliance. All applicants shall submit, in a form prescribed by the state, evidence of compliance with Title VI of the Civil Rights Act of 1964. This enables the state to determine whether the benefits will be provided on a nondiscriminatory basis and will achieve the purposes of the program for all persons, regardless of race, color, or national origin.

(5) **Certification of Assurances.** The certificate of assurances required by the state, relative to federal and state statutory requirements, shall be submitted by all applicants; this certificate includes, but is not limited to, Title VI, Title VIII, Section 109, and affirmatively furthering fair housing. In addition, each recipient should target at least 15 percent of all grant monies for minority enterprises. All assurances must be strictly adhered to; otherwise, the grant award will be subject to penalty.

(6) **Certification to Minimize Displacement.** The applicant must certify that it will minimize displacement as a result of the activities assisted with LCDBG funds. In addition to minimizing displacement, the applicant must certify that when displacement occurs reasonable benefits will be provided to persons involuntarily and permanently displaced as a result of the LCDBG assistance to acquire or substantially rehabilitate property. This provision applies to all displacement with respect to residential and nonresidential property not governed by the Uniform Relocation Act.

(7) **Certification of Residential Antidisplacement and Relocation Assistance Plan.** The applicant must certify that it has developed and is following a residential antidisplacement and relocation assistance plan. The Plan must include two components - a requirement to replace all low/moderate income dwelling units that are demolished or converted to a use other than low/moderate income housing as a direct result of the use of CDBG assistance and a relocation assistance component.

(8) **Certification to Promote Fair Housing Opportunities.** Applicants are required to certify that they will make every effort to further fair housing opportunities in their respective jurisdictions.

(9) **Certification Prohibiting Special Assessments.** The applicant must submit a certification prohibiting the recovery of capital costs for public improvements financed, in whole or in part, with LCDBG funds through assessments against properties owned and occupied by low and moderate income persons. The prohibition applies also to any fees charged or assessed as a condition of obtaining access to the public improvements.

(10) **Certification of Citizen Participation.** Applicants shall provide adequate information to citizens about the Community Development Block Grant Program. Applicants shall provide citizens with an adequate opportunity to participate in the planning and assessment of the application for Community Development Block Grant Program funds. At least one public hearing must be held prior to application preparation in order to obtain the citizens' views on community development and housing needs. A notice must be published informing the populace of the forthcoming public hearing; a minimum of five calendar days is required for this notice. The notice must inform the citizens that accommodations will be provided for individuals with handicaps and non-English speaking persons. Citizens must be provided with the following information at the first hearing:

- i. The amount of funds available for proposed community development and housing activities;
- ii. The range of activities that may be undertaken, including the estimated amount proposed to be used for

activities that will benefit persons of low and moderate income;

iii. The plans of the applicant for minimizing displacement of persons as a result of activities assisted with such funds and the benefits to be provided to persons actually displaced as a result of such activities.

iv. If applicable, the applicant must provide citizens with information regarding the applicant's performance on prior LCDBG programs funded by the state.

A second notice must be published after the first public hearing has been held but before the application is submitted. The second notice must inform citizens of the proposed objectives, proposed activities, the location of the proposed activities, and the amounts to be used for each activity. Citizens must be given the opportunity to submit comments on the proposed application. The notice must further provide the location at which and hours when the application is available for review. The notice must state the proposed submittal date of the application. In order to provide a forum for citizen participation relative to the proposed activities, a second hearing must be held to receive comments and discuss the proposed application. The details on this second hearing must be included in the second public notice. The notice must inform the citizens that accommodations will be made for individuals with handicaps and non-English speaking persons. The second public hearing must also be held prior to the submittal of the application.

Applicants must submit a notarized proof of publication of each public notice.

Each applicant shall provide citizens with adequate opportunity to participate in the planning, implementation, and assessment of the CDBG program. The applicant shall provide adequate information to citizens, hold public hearings at the initial stage of the planning process to obtain views and proposals of citizens, and provide opportunity to comment on the applicant's community development performance. In order to achieve these goals each applicant shall prepare and follow a written citizen participation plan that incorporates procedures for complying with the following regulations (a-f). The plan must be made available to the public at the beginning of the planning stage, i.e., the first public hearing.

The written plan must:

(a) provide for and encourage citizen participation, with particular emphasis on participation by persons of low and moderate income who are residents of slum and blighted areas and of areas in which funds are proposed to be used;

(b) provide citizens with reasonable and timely access to local meetings, information, and records relating to the state's proposed method of distribution, as required by regulations of the secretary, and relating to the actual use of funds under Title I of the Housing and Community Development Act of 1974, as amended;

(c) provide for technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;

(d) provide for public hearings to obtain citizens' views and to respond to proposals and questions at all stages of the community development program, including at least the

development of needs, the review of proposed activities, and review of program performance, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodations for the handicapped and non-English speaking persons.

(e) provide for a timely written answer to written complaints and grievances, within 15 working days where practicable; and

(f) identify how the needs of non-English speaking and handicapped residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

(11) Certification Regarding Lead-Based Paint. The applicant must certify that its notification, inspection, testing, and abatement procedures concerning lead-based paint are in compliance with Community Development Block Grant regulations.

(12) Certification on Excessive Use of Force. This certification requires each unit of general local government to be distributed Title I funds to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individual engaged in non-violent Civil Rights demonstrations in accordance with Section 104(l) of Title I of the Housing and Community Development Act of 1974, as amended.

(13) Certification Regarding Government-Wide Restrictions on Lobbying. The applicant must certify that no federally appropriated funds have been paid for any lobbying purposes regardless of the level of government.

(14) Certification Prohibiting Discrimination of Handicapped Individuals. Applicants shall provide written certification that as a recipient of LCDBG funds, and subject to Section 504 of the Rehabilitation Act of 1973, as amended, they will prohibit discrimination based on handicap under any program or activity, in whole or in part, receiving federal financial assistance from the Department of Housing and Urban Development. This certification guarantees that the recipient will complete a self-evaluation and transition plan, if applicable, and actively pursue remedying discrimination based on handicap as required by Section 504. This certification further obligates the recipient for the period during which federal financial assistance is extended.

(15) Section 102 Disclosures and Certifications. In accordance with Section 102 of the United States Department of Housing and Urban Development Reform Act of 1989, all applicants for Community Development Block Grant funds will be required to make certain disclosures pertaining to assistance from other government sources in connection with the project, the financial interests of persons in the project, the sources of funds to be made available for the project, and the uses to which the funds are to be put.

(16) The state may require additional certifications from applicants/recipients whenever so required by federal regulations.

(17) Local Survey Data. Those applicants who conduct a local survey to determine specific data required for the application must include one copy of all completed survey forms.

(18) Submission of Additional Data. Only that data received by the deadline established for applications will be considered in the selection process unless additional data is specifically requested by the state. Material received after the deadline will not be considered as part of the application, unless requested by the state.

F. Application Review Procedure

(1) The application must be mailed or delivered prior to any deadline dates established by the division. The applicant must obtain a "Certificate of Mailing" from the Post Office, certifying the date mailed. The division may require the applicant to submit this Certificate of Mailing to document compliance with the deadline, if necessary.

(2) The application submission requirements must be complete.

(3) The funds requested must not exceed the ceiling amounts established by the division.

(4) Review and notification. Following the review of all applications, the division will promptly notify the applicant of the actions taken with regard to its application.

(5) Criteria for conditional approval. The division may make a conditional approval, in which case the grant will be approved, but the obligation and utilization of funds is restricted. The reason for the conditional approval and the actions necessary to remove the condition shall be specified. Failure to satisfy the condition may result in a termination of the grant. Conditional approval may be made:

i. where local environmental reviews have not yet been completed;

ii. where the requirements regarding the provision of flood or drainage facilities have not yet been satisfied;

iii. to ensure the project can be completed within estimated costs;

iv. to ensure that actual provision of other resources required to complete the proposed activities will be available within a reasonable period of time.

(6) Criteria for disapproval of an application. The division may disapprove an application for any of the following reasons:

i. Based on a field review of the applicant's proposal or other information received, it is found that the information was incorrect; the division will exercise administrative discretion in this area.

ii. The Division of Administration determines that the applicant's description of needs and objectives is plainly inconsistent with facts and data generally available. The data to be considered must be published and accessible to both the applicant and state such as census data, or recent local, area wide, or state comprehensive planning data.

iii. Other resources necessary for the completion of the proposed activity are no longer available or will not be available within a reasonable period of time.

iv. The activities cannot be completed within the estimated costs or resources available to the applicant.

v. The proposed activity is not eligible for funding or one of the two national objectives is not being met.

G. Program Amendments for LCDBG Program

The division may consider amendments if they are necessitated by actions beyond the control of the applicant.

Recipients shall request prior division approval for all program amendments involving new activities or alteration of existing activities that will change the scope, location, or objectives of the approved activities or beneficiaries.

A. New or altered activities are considered in accordance with the criteria for selection applicable at the time the original application was reviewed and the policy, current at that time, regarding amendments.

B. All amended activities must receive environmental clearance prior to construction.

C. The state will ascertain as to whether or not the proposed activity is an integral part of the originally approved project and is necessary to complete the project as originally approved. The state will also review the site location of the proposed activity in relation to the originally approved target area. As a general rule, activities which are not an integral part of the originally approved project and which are not located within the boundaries of the originally approved target area will not be approved.

IV. Administration

Rule for Policy Determination. In administering the program, while the division is cognizant of the intent of the program, certain unforeseeable circumstances may arise which may require the exercise of administrative discretion. The division reserves the right to exercise this discretion in either interpreting or establishing new policies.

V. Redistribution of Funds

Any monies awarded by the state that are later recaptured by or returned to the state will be reallocated in accordance with the division's policy, then in effect. The sources of these funds may include, but not be limited to, program income, questioned costs, disallowed expenses, recaptured funds from loans, unallocated monies, previously awarded funds not spent by grant recipients, et cetera.

With the following exceptions and the stipulations identified in Section II.E., the monies as defined above will be placed in the current program year's public facilities category and will be used to fund the project(s) with the highest score that was not initially funded. This policy will govern all such monies as defined herein from the FY 1984, FY 1985, FY 1986, FY 1987, FY 1988, FY 1989, FY 1990, FY 1991, FY 1992, and FY 1993 LCDBG Program years as well as subsequent funding cycles, until later amended. One exception to this rule is that funds recaptured from economic development grants/loans which were not spent by the grant recipients will initially be transferred to the current economic development program category. Those monies remaining in the economic development program category at the end of the FY 1993 program year will be transferred to the public facilities category for distribution as described in Section II. E. Another exception is that all funds recaptured by the state from the payback of economic development loans will be placed in an economic development revolving loan fund which will be used to supplement funding for economic development projects. These funds will be subject to the federal regulations regarding use of program income.

These regulations are to become effective upon publication as a rule in the *Louisiana Register* and are to remain in force until they are amended or rescinded.

APPENDIX 1

Act 590 of the 1970 Parish Redevelopment Act Section Q-8

(8) *Slum area* means an area in which there is a predominance of buildings or improvements, whether residential or non-residential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open space, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or an area of open land which, because of its location and/or platting and planning development, for predominantly residential uses, or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.

(i) *Blighted area* means an area which by reason of the presence of a substantial number of slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use; but if the area consists of any disaster area referred to in Subsection C (5), it shall constitute a "blighted area."

APPENDIX 2

Eligible Activities

Sec.105.(a) Activities assisted under this title may include only—

(1) the acquisition of real property (including air rights, water rights, and other interests therein) which is

(A) blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;

(B) appropriate for rehabilitation or conservation activities;

(C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development;

(D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this title; or

(E) to be used for other public purposes;

(2) the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except

for buildings for the general conduct of government), and site or other improvements;

(3) Code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public or private improvements or services to be provided, may be expected to arrest the decline of the area;

(4) clearance, demolition, removal, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for rehabilitation, and rehabilitation, of privately owned properties and including the renovation of closed school buildings);

(5) special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;

(6) payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by activities under this title;

(7) disposition (through sale, lease, donation or otherwise) of any real property acquired pursuant to this title or its retention for public purposes;

(8) provisions of public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs, if such services have not been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the state in which it is located) during any part of the twelve-month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under this title, and which are to be used for such services, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government, except that not more than 15 percent of the amount of any assistance to a unit of general local government (or in the case of nonentitled communities not more than 15 percent statewide) under this title including program income may be used for activities under this paragraph unless such unit of general local government used more than 15 percent of the assistance received under this title for fiscal year 1982 or fiscal year 1983 for such activities (excluding any assistance received pursuant to Public Law 98-8), in which case such unit of general local government may use not more than the percentage or amount of such assistance used for such activities for such fiscal year, whichever method of calculation yields the higher amount, and except that of any amount of assistance under this Title (including program income) in each of Fiscal Years 1993 through 1997 to the city of Los Angeles and county of Los Angeles each such unit of general government may use not more than 25 percent in each fiscal year for activities under this paragraph;

(9) payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of activities assisted under this title;

(10) payment of the cost of completing a project funded under title I of the Housing Act of 1949;

(11) relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate;

(12) activities necessary

(A) to develop a comprehensive community development plan, and

(B) to develop a policy-planning-management capacity so that the recipient of assistance under this title may more rationally and effectively

(i) determine its needs,

(ii) set long-term goals and short-term objectives,

(iii) devise programs and activities to meet these goals and objectives,

(iv) evaluate the progress of such programs in accomplishing these goals and objectives, and

(v) carry out management, coordination, and monitoring of activities necessary for effective planning implementation;

(13) payment of reasonable administrative costs related to establishing and administering Federally approved enterprise zones and payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities, and including and carrying out of activities as described in section 701(e) of the Housing Act of 1954 on the date prior to the date of enactment of Housing and Community Development Amendments of 1981; and

(14) provision of assistance including loans (both interim and long term) and grants for activities which are carried out by public or private nonprofit entities, including

(A) acquisition of real property;

(B) acquisition, construction, reconstruction, rehabilitation, or installation of

(i) public facilities (except for buildings for the general conduct of government), site improvements, and utilities, and

(ii) commercial or industrial buildings or structures and other commercial or industrial real property improvements; and

(C) planning;

(15) assistance to neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations serving the development needs of the communities of nonentitlement areas, or entities organized under section 301(d) of the Small Business Investment Act of 1958 to carry out a neighborhood revitalization or community economic development energy conservation project in furtherance of the objectives of section 101(c), and assistance to neighborhood-based nonprofit organizations, or other private or public nonprofit organizations, for the purpose of assisting, as part of neighborhood revitalization or other community development, the development of shared housing opportunities (other than by construction of new facilities) in which elderly families (as defined in section 3(b)(3) of the United States Housing Act of 1937) benefit as a result of living in a dwelling in which the facilities are shared with others in a manner that effectively and efficiently meets the

housing needs of the residents and thereby reduces their cost of housing;

(16) activities necessary to the development of energy use strategies related to recipient's development goals, to assure that those goals are achieved with maximum energy efficiency, including items such as—

(A) an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, waste management, district heating and cooling, land use planning and zoning, and traffic control, parking, and public transportation functions; and

(B) a statement of the actions the recipient will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities.

(17) provision of assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project (that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods) that—

(A) creates or retains jobs for low- and moderate-income persons;

(B) prevents or eliminates slums and blight;

(C) meets urgent needs;

(D) creates or retains businesses owned by community residents;

(E) assists businesses that provide goods or services needed by, and affordable to, low- and moderate-income residents; or

(F) provides technical assistance to promote any of the activities under subparagraphs (A) through (E);

(18) the rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of 1937;

(19) provision of assistance to facilitate substantial reconstruction of housing owned and occupied by low and moderate income persons

(A) where the need for reconstruction was not determinable until after rehabilitation under this section had already commenced, or

(B) where the reconstruction is part of a neighborhood rehabilitation effort and the grantee

(i) determines the housing is not suitable for rehabilitation, and

(ii) demonstrates to the satisfaction of the Secretary that the cost of substantial reconstruction is significantly less than the cost of new construction and less than the fair market value of the property after substantial reconstruction;

(20) provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities, which in accordance shall not be considered a

planning cost as defined in paragraph (12) or administrative cost as defined in paragraph (13);

(21) housing services, such as housing counseling, energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in housing activities authorized under this section, or under title II of the Cranston-Gonzalez National Affordable Housing Act, except that activities under this paragraph shall be subject to any limitation on administrative expenses imposed by any law;

(22) provision of assistance by recipients under this title to institutions of higher education having a demonstrated capacity to carry out eligible activities under this subsection for carrying out such activities;

(23) provision of assistance to public and private organizations, agencies, and other entities (including nonprofit and for-profit entities) to enable such entities to facilitate economic development by—

(A) providing credit (including providing direct loans and loan guarantees, establishing revolving loan funds, and facilitating peer lending programs) for the establishment, stabilization, and expansion of microenterprises;

(B) providing technical assistance, advice, and business support services (including assistance, advice, and support relating to developing business plans, securing funding, conducting marketing, and otherwise engaging in microenterprise activities) to owners of microenterprises and persons developing microenterprises; and

(C) providing general support (such as peer support programs and counseling) to owners of microenterprises and persons developing microenterprises;

(24) activities necessary to make essential repairs and to pay operating expenses necessary to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such housing in primarily low- and moderate-income neighborhoods; and

(25)* provision of direct assistance to facilitate and expand homeownership among persons of low and moderate income (except that such assistance shall not be considered a public service for purposes of paragraph (8)) by using such assistance to—

(A) subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers;

(B) finance the acquisition by low- and moderate-income homebuyers of housing that is occupied by the homebuyers;

(C) acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that amounts received under this title may not be used under this subparagraph to directly guarantee such mortgage financing and grantees under this title may not directly provide such guarantees);

(D) provide up to 50 percent of any downpayment required from low- or moderate-income homebuyer, or

(E) pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low- or moderate-income homebuyer.

*Section 907(b)(2) of the Cranston-Gonzalez National Affordable Housing Act provides the following termination for Sec. 105(a)(20):

(2) TERMINATION. Effective on October 1, 1994 (or October 1, 1995, if the Secretary determines that such later date is necessary to continue to provide homeownership assistance until homeownership assistance is available under title II of the Cranston-Gonzalez National Affordable Housing Act), section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(A) in paragraph (20), by inserting "and" at the end;

(B) in paragraph (24), by striking ", and" at the end and inserting a period; and

(C) by striking paragraph (25).

(b) Upon the request of the recipient of assistance under this title, the Secretary may agree to perform administrative services on a reimbursable basis on behalf of such recipient in connection with loans or grants for the rehabilitation of properties as authorized under subsection (a)(4).

(c)(1) In any case in which an assisted activity described in paragraph (14) or (17) of subsection (a) is identified as principally benefitting persons of low and moderate income, such activity shall—

(A) be carried out in a neighborhood consisting predominately of persons of low and moderate income and provide services for such persons; or

(B) involve facilities designed for use predominately by persons of low and moderate income; or

(C) involve employment of persons, a majority of whom are persons of low and moderate income.

(2)(A) In any case in which an assisted activity described in subsection (a) is designed to serve an area generally and is clearly designed to meet identified needs of persons of low and moderate income in such area, such activity shall be considered to principally benefit persons of low and moderate income if

(i) not less than 51 percent of the residents of such area are persons of low and moderate income;

(ii) in any metropolitan city or urban county, the area served by such activity is within the highest quartile of all areas within the jurisdiction of such city or county in terms of the degree of concentration of persons of low and moderate income; or

(iii) the assistance for such activity is limited to paying assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement.

(B) The requirements of subparagraph (A) do not prevent the use of assistance under this title for the development, establishment, of a uniform emergency telephone number system if the Secretary determines that —

(i) such system will contribute substantially to the safety of the residents of the area served by such system;

(ii) not less than 51 percent of the use of the system will be by persons of low and moderate income; and

(iii) other Federal funds received by the grantee are not available for the development, establishment, and operation of

such system due to the insufficiency of the amount of such funds, the restrictions on the use of such funds, or the prior commitment of such funds for other purposes by the grantee. The percentage of the cost of the development, establishment, and operation of such a system that may be paid from assistance under this title and that is considered to benefit low and moderate income persons is the percentage of the population to be served that is made up of persons of low and moderate income.

(3) Any assisted activity under this title that involves the acquisition or rehabilitation of property to provide housing shall be considered to benefit persons of low and moderate income only to the extent such housing will, upon completion, be occupied by such persons.

(4) For purposes of subsection (c)(1)(C)—

(A) If an employee resides in, or the assisted activity through which he or she is employed, is located in a census tract that meets the Federal enterprise zone eligibility criteria, the employee shall be presumed to be a person of low- or moderate-income; or

(B) If an employee resides in a census tract where not less than 70 percent of the residents have incomes at or below 80 percent of the area median, the employee shall be presumed to be a person of low- or moderate-income.

(D) Training Program. The Secretary shall implement, using funds recaptured pursuant to section 119(o), an on-going education and training program for officers and employees of the department, especially officers and employees of area and other field offices of the department, who are responsible for monitoring and administering activities pursuant to paragraphs (14), (15), and (17) of subsection (A) for the purposes of ensuring that

(A) such personnel possess a thorough understanding of such activities; and

(B) regulations and guidelines are implemented in a consistent fashion.

(E) Guidelines For Evaluating and Selecting Economic Development Projects.

(1) Establishment. The Secretary shall establish, by regulation, guidelines to assist grant recipients under this title to evaluate and select activities described in section 105(a)(14), (15), and (17) for assistance with grant amounts. The Secretary shall not base a determination of eligibility of the use of funds under this title for such assistance solely on the basis that the recipient fails to achieve one or more of the guidelines' objectives as stated in paragraph (2).

(2) Project Costs and Financial Requirements.— The guidelines established under this subsection shall include the following objectives:

(A) The project costs of such activities are reasonable.

(B) To the extent practicable, reasonable financial support has been committed for such activities from non-Federal sources prior to the disbursement of Federal funds.

(C) To the extent practicable, any grant amounts to be provided for such activities do not substantially reduce the amount of non-Federal financial support for the activity.

(D) Such activities are financially feasible.

(E) To the extent practicable, such activities provide not more than a reasonable return on investment to the owner.

(F) To the extent practicable, grant amounts used for the costs of such activities are disbursed on a pro-rata basis with the amounts of other sources.

(3) Public Benefit. The guidelines established under this subsection shall provide that the public benefit provided by the activity is appropriate relative to the amount of assistance provided with grant amounts under this title.

(F) Assistance to the For-Profit Entities. In any case in which an activity described in paragraph (17) of subsection (A) is provided assistance such assistance shall not be limited to activities for which no other forms of assistance are available or could not be accomplished but for that assistance.

(G) Microenterprise and Small Business Program Requirements. In developing program requirements and providing assistance pursuant to paragraph (17) of subsection (A) to a microenterprise or small business, the Secretary shall-

(1) take into account the special needs and limitations arising from the size of the entity; and

(2) not consider training, technical assistance, or other support services costs provided to small businesses or microenterprises or to grantees and subgrantees to develop the capacity to provide such assistance, as a planning cost pursuant to section 105(A)(12) or an administrative cost pursuant to section 105(A)(13).

1992 Median Family Income
By Parish and MSA
(Continued)

Parish	1992 Median Family Income	Low/Mod Income* Limit	Low Income* Limit
Sabine	\$ 24,600	\$ 20,900	\$ 13,050
St. Bernard	See MSA - New Orleans		
St. Charles	See MSA - New Orleans		
St. Helena	23,700	20,900	13,050
St. James	34,000	27,200	15,600
St. John the Baptist	See MSA - New Orleans		
St. Landry	23,600	20,900	13,050
St. Martin	See MSA - Lafayette		
St. Mary	33,200	26,550	16,600
St. Tammany	See MSA - New Orleans		
Tangipahoa	25,100	20,900	13,050
Tensas	18,900	20,900	13,050
Terrebonne	See MSA Houma - Thibodaux		
Union	25,400	20,900	13,050
Vermilion	25,400	20,900	13,050
Vernon	21,200	20,900	13,050
Washington	23,900	20,900	13,050
Webster	25,900	20,900	13,050
W. Baton Rouge	See MSA - Baton Rouge		
West Carroll	19,600	20,900	13,050
West Feliciana	29,800	22,300	13,350
Winn	21,500	20,900	13,050

*For those parishes which have a median family income less than the State nonmetropolitan median family income (\$26,100), the low/mod income and the low income limits were based on the State nonmetropolitan median family income.

MSA-Metropolitan
Statistical Areas

MSA Alexandria, LA1	29,800	23,850	14,900
MSA Baton Rouge, LA2	36,800	29,450	18,400
MSA Houma-Thibodaux, LA3	32,700	26,150	16,350
MSA Lafayette, LA4	36,300	29,050	18,150
MSA Lake Charles, LA5	36,500	29,200	18,250
MSA Monroe, LA6	28,900	23,100	14,450
MSA New Orleans, LA7	35,100	28,100	17,550
MSA Shreveport, LA8	34,400	27,500	17,200

Footnotes:

- 1 Includes Rapides Parish only.
- 2 Includes East Baton Rouge, West Baton Rouge, Livingston, and Ascension Parishes.
- 3 Includes Terrebonne and Lafourche Parishes.
- 4 Includes St. Martin and Lafayette Parishes.
- 5 Includes Calcasieu Parish only.
- 6 Includes Ouachita Parish only.
- 7 Includes Jefferson, Orleans, St. Tammany, St. Bernard, St. John the Baptist, and St. Charles Parishes.
- 8 Includes Caddo and Bossier Parishes.

APPENDIX 3

1992 Median Family Income
By Parish and MSA

Parish	1992 Median Family Income	Low/Mod Income* Limit	Low Income* Limit
Acadia	\$ 23,200	\$ 20,900	\$ 13,050
Allen	26,900	20,900	13,050
Ascension	See MSA - Baton Rouge		
Assumption	28,000	22,400	13,850
Avoyelles	20,700	20,900	13,050
Beauregard	29,900	21,900	13,050
Bienville	25,200	20,900	13,050
Bossier	See MSA - Shreveport		
Caddo	See MSA - Shreveport		
Calcasieu	See MSA - Lake Charles		
Caldwell	22,900	20,900	13,050
Cameron	35,300	25,900	13,900
Catahoula	22,000	20,900	13,050
Claiborne	26,500	21,200	13,250
Concordia	26,300	21,050	13,150
Desoto	27,100	21,700	13,550
E. Baton Rouge	See MSA - Baton Rouge		
East Carroll	18,800	20,900	13,050
East Feliciana	33,800	25,300	13,350
Evangeline	21,300	20,900	13,050
Franklin	21,600	20,900	13,050
Grant	23,800	20,900	13,050
Iberia	31,000	24,800	15,500
Iberville	36,200	27,050	13,350
Jackson	25,200	20,900	13,050
Jefferson	See MSA - New Orleans		
Jefferson Davis	30,300	22,250	13,050
Lafayette	See MSA - Lafayette		
Lafourche	See MSA - Houma-Thibodaux		
LaSalle	26,300	21,050	13,150
Lincoln	30,400	24,300	15,200
Livingston	See MSA - Baton Rouge		
Madison	19,300	20,900	13,050
Morehouse	23,500	20,900	13,050
Natchitoches	24,300	20,900	13,050
Ouachita	See MSA - Monroe		
Plaquemines	34,800	27,850	17,400
Pointe Coupee	31,100	23,300	13,350
Rapides	See MSA - Alexandria		
Red River	22,800	20,900	13,050
Richland	21,900	20,900	13,050

Source: Income data provided by U. S. Department of Housing and Urban Development, April 16, 1992.

APPENDIX 4

1980 Median Family Income
By Parish and MSA

Parish	1980 Median Family Income	LOW/MOD INCOME LIMIT		LOW INCOME LIMIT	
		Families	Unrelated Individuals	Families	Unrelated Individuals
Acadia	\$ 15,792	\$12,634	\$ 8,844	\$ 7,896	\$ 5,527
Allen	15,685	12,548	8,784	7,842	5,489
Ascension	21,572	17,258	12,080	10,786	7,550
Assumption	17,334	13,867	9,707	8,667	6,067
Avoyelles	11,987	9,590	6,713	5,994	4,196
Beauregard	17,417	13,934	9,754	8,709	6,096
Bienville	13,850	11,080	7,756	6,925	4,848
Bossier	See MSA - Shreveport				
Caddo	See MSA - Shreveport				
Calcasieu	See MSA - Lake Charles				
Caldwell	12,624	10,099	7,069	6,312	4,418
Cameron	20,562	16,450	11,515	10,281	7,197
Catahoula	12,770	10,216	7,151	6,385	4,470
Claiborne	14,538	11,630	8,141	7,269	5,088
Concordia	15,208	12,166	8,516	7,604	5,323
Desoto	14,887	11,910	8,337	7,444	5,211
E. Baton Rouge	See MSA - Baton Rouge				
East Carroll	10,388	8,310	5,817	5,194	3,636
East Feliciana	16,184	12,947	9,063	8,092	5,664
Evangeline	12,540	10,032	7,022	6,270	4,389
Franklin	11,937	9,550	6,685	5,969	4,178
Grant	See MSA - Alexandria				
Iberia	19,268	15,414	10,790	9,634	6,744
Iberville	17,340	13,872	9,710	8,670	6,069
Jackson	13,919	11,135	7,795	6,960	4,872
Jefferson	See MSA - New Orleans				
Jefferson Davis	17,657	14,126	9,888	8,829	6,180
Lafayette	See MSA - Lafayette				
Lafourche	19,947	15,958	11,170	9,974	6,982
LaSalle	15,250	12,200	8,540	7,625	5,338
Lincoln	16,660	13,328	9,330	8,330	5,831
Livingston	See MSA - Baton Rouge				
Madison	10,679	8,543	5,980	5,340	3,738
Morehouse	12,949	10,359	7,251	6,475	4,533
Wachitoches	13,343	10,674	7,472	6,672	4,670
Orleans	See MSA - New Orleans				
Ouachita	See MSA - Monroe				
Plaquemines	19,884	15,907	11,135	9,942	6,959
Pointe Coupee	14,913	11,930	8,351	7,457	5,220
Rapides	See MSA - Alexandria				
Red River	12,482	9,986	6,990	6,241	4,369
Richland	12,112	9,690	6,783	6,056	4,239

1980 Median Family Income
By Parish and MSA
(Continued)

Parish	1980 Median Family Income	LOW/MOD INCOME LIMIT		LOW INCOME LIMIT	
		Families	Unrelated Individuals	Families	Unrelated Individuals
Sabine	\$ 13,519	\$ 10,815	\$ 7,571	\$ 6,760	\$ 4,732
St. Bernard	See MSA - New Orleans				
St. Charles	23,223	18,578	13,005	11,612	8,128
St. Helena	11,970	9,096	6,367	5,685	3,980
St. James	21,044	16,835	11,785	10,522	7,365
St. John the Baptist	21,818	17,454	12,218	10,909	7,636
St. Landry	13,893	11,114	7,780	6,947	4,863
St. Martin	16,612	13,290	9,303	8,306	5,814
St. Mary	20,688	16,550	11,585	10,344	7,241
St. Tammany	See MSA - New Orleans				
Tangipahoa	14,315	11,452	8,016	7,158	5,011
Tensas	10,447	8,358	5,850	5,224	3,657
Terrebonne	20,918	16,734	11,714	10,459	7,321
Union	14,027	11,222	7,855	7,014	4,910
Vermilion	16,951	13,561	9,493	8,476	5,933
Vernon	12,951	10,361	7,253	6,476	4,533
Washington	13,641	10,933	7,639	6,821	4,775
Webster	See MSA - Shreveport				
W. Baton Rouge	See MSA - Baton Rouge				
West Carroll	10,807	8,646	6,052	5,404	3,783
West Feliciana	14,289	11,431	8,002	7,145	5,002
Winn	12,445	9,956	6,969	6,223	4,356
MSA-Metropolitan Statistical Areas					
Alexandria, LA1	\$15,741	\$12,593	\$ 8,815	\$ 7,871	\$5,510
Baton Rouge, LA2	21,301	17,041	11,929	10,651	7,456
Lafayette, LA3	21,472	17,178	12,024	10,736	7,515
Lake Charles, LA4	21,316	17,053	11,937	10,658	7,461
Monroe, LA5	17,140	13,712	9,598	8,570	5,999
New Orleans, LA6	19,196	15,357	10,750	9,598	6,719
Shreveport, LA7	18,158	14,526	10,168	9,079	6,355

Footnotes:

- 1 Includes Rapides and Grant Parishes.
- 2 Includes East Baton Rouge, West Baton Rouge, Livingston, and Ascension Parishes.
- 3 Includes Lafayette Parish only.
- 4 Includes Calcasieu Parish only.
- 5 Includes Ouachita Parish only.
- 6 Includes Jefferson, Orleans, St. Bernard, St. Tammany Parishes.
- 7 Includes Bossier, Caddo and Webster Parishes.

Source: 1980 Census and Formula provided by U. S. Department of Housing and Urban Development.

Raymond Laborde
Commissioner

Suanne Grosskopf
Executive Director

RULE

Office of the Governor
Patient's Compensation Fund Oversight Board

Actuarial Study; Annual Report (LAC 37:III.703, 1311)

The Patient's Compensation Fund Oversight Board (the board), under authority of the Louisiana Medical Malpractice Act, R.S. 40:1299.41, et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., has amended LAC 37:III. Chapter 7 pertaining to the date which the actuarial study and application for surcharge rates or rate changes must be completed, and has amended LAC 37:III. Chapter 13 pertaining to the date which the annual statement of the financial condition of the Patient's Compensation Fund at December 31 of the preceding year must be prepared.

Title 37

INSURANCE

Part III. Patient's Compensation Fund Oversight Board
Chapter 7. Surcharges
§703. Annual Actuarial Study

A. An actuarial study of the fund and the surcharge rate structure necessary and appropriate to ensure that it is and remains financially and actuarially sound shall be performed annually by the PCF's consulting actuary on the basis of actuarial analysis of all relevant claims experience data collected and maintained by the fund. In conjunction with the executive director, the consulting actuary shall, on behalf of the board, develop and prepare for submission to the LIRC an application for surcharge rates or rate changes. The actuarial study and application for surcharge rates or rate changes shall be completed each year on or before April 15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:175 (February 1992), amended LR 19: (February 1993).

Chapter 13. Fund Data Collection, Maintenance; Accounting and Reporting
§1311. Annual Report

On or before July 1 of each year, the executive director shall cause to be prepared an annual statement of the financial condition of the fund at December 31 of the preceding year, which statement shall be substantially in the form of the annual report required to be filed by liability insurance companies authorized to do business in this state, and which statement shall have been audited or reviewed by the legislative auditor or by an independent certified public accountant. Such statement shall be submitted to the governor, the board, and the legislature on or before July 1 of each year, and shall be a public record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:179 (February 1992), amended LR 19: (February 1993).

RULE

Department of Health and Hospitals Board of Dentistry

Dental Assistants (LAC 46:XXXIII.Chapter5)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and R.S. 37:760(8), notice is hereby given that the Board of Dentistry has amended the following rules

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 5. Dental Assistants

§501. Authorized Duties

A. A dental assistant is one who is employed by and works in the office of a licensed, practicing dentist and performs the duties authorized by the Louisiana State Board of Dentistry under the direct on-premises supervision, direction and responsibility of the dentist.

B. A dental assistant may only perform the following under the direct on-premises supervision of the dentist who employs her or him as directly ordered by the dentist.

1. Serve as the dentist's chairside assistant.
2. Take and develop dental radiographs and intra-oral photographs.
3. Take and record pulse, blood pressure and temperature.
4. Apply:
 - a. non-aerosol topical anesthetics;
 - b. topical fluorides following prophylaxis by a dentist or dental hygienist;
 - c. desensitizing agents;
 - d. non-endodontic oxygenating agents.
5. Chart existing restorations and missing teeth, floss teeth and make preliminary inspections of the mouth and teeth with a mouth mirror and floss only.
6. Give intra-oral instructions and demonstrations on oral hygiene procedures.
7. Receive removable prostheses for cleaning or repair work.
8. Remove cement from dental restorations and appliances, with hand instruments, limited to the clinical crown.
9. Make dental plaque smears.
10. Place or remove pre-formed crowns or bands for determining size only when recommended by the dentist and only under his or her supervision.
11. Place or remove ligatures, cut and tuck ligatures, remove tension devices and any loose or broken bands or arch wires.
12. Place a removable retaining device in the mouth of a patient.
13. Remove final impressions.
14. Apply and remove rubber dams.

15. Make preliminary study model impressions and opposing model impressions.

16. Fabricate and remove interim crowns or bridges (interim meaning temporary while permanent restoration is being fabricated).

17. Condition teeth prior to placement of orthodontics bands or brackets.

18. Place or remove temporary orthodontic separating devices.

19. Remove sutures, post-extraction dressing and surgical ligature ties.

Exception: A dental assistant who has been employed by a licensed, practicing dentist and has worked as a dental assistant prior to July 30, 1992, may continue performing the following duties without registering as an expanded duty dental assistant. These duties must also be performed under the direct, on-premises supervision of the dentist.

a. Apply cavity liners, excluding capping of exposed pulpal tissue.

b. Place, wedge or remove matrices for restoration by the dentist.

c. Place and remove periodontal dressings, except for the placement of the initial dressing.

d. Place and remove retraction cords.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry (October 1970), amended LR 2:186 (June 1976), LR 7:586 (November 1981), LR 15:965 (November 1989), LR 16:505 (June 1990), LR 19: (February 1993).

§502. Authorized Duties of Expanded Duty Dental Assistants

An expanded duty dental assistant may perform the following duties:

1. all duties contained in Chapter 5, Authorized Duties of Dental Assistants;
2. apply acid-etch liquids and gels; apply cavity liners, excluding capping of exposed pulpal tissue;
3. place, wedge or remove matrices for restorations by the dentist;
4. coronal polishing prior to or after the placement or removal of bands, crowns, and restorations or after the removal of dressings or packs, excluding periodontal dressings and packs, or after scaling by a dentist or hygienist, or prior to rubber dam placement, fluoride application or acid-etch procedures;
5. place or remove temporary separating devices;
6. place and remove periodontal dressings, except for the initial dressing;
7. place and remove retraction cords.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (February 1993).

§503. Guide to Curriculum Development for Expanded Duty Dental Assistants

A. Cognitive Objectives

1. Before becoming registered to perform expanded duty dental assistant functions, dental assistants should be tested on

the reasons for doing these procedures, the criteria for correct performance of these procedures, and the effects of improper performance of these procedures. The dental assistant shall be familiar with the State Dental Practice Act and the rules and regulations governing dental auxiliaries. This testing shall be included within 30 hours of instruction.

2. The following is a model outline for the expanded duty dental assistant course. The hours are to be allocated by the instructor in accordance with current law.

a. Introduction: What is an expanded duty dental assistant?

b. Jurisprudence: Legal duties of auxiliaries, limitation of auxiliary services, responsibility of dentists for all services provided under dentist's supervision, responsibility of auxiliaries to perform only those functions that are legally delegated, penalties for violation of dental practice act, mechanism to report to the board violations of dentists and/or auxiliaries.

c. Infection control and prevention of disease transmission, dental assistants' responsibilities in upholding universal barrier techniques and OSHA rules.

d. Handling dental emergencies.

e. Charting.

f. Oral Anatomy, Morphology of the Teeth, Medical and Dental History for the Dentist's Review (vital signs, drug evaluation, medical laboratory reports, ascertaining the patient's chief dental problem).

g. Overview of Dental Materials: Cavity liners, temporary restorations, temporary crown materials, periodontal dressings, post-surgical packs, acid-etch materials.

h. Coronal Polishing-Rationale, Materials, Techniques, Contraindications.

i. Lab on Coronal Polishing and Performance Evaluation: Half of lab period shall be spent practicing on typodonts while second half shall be spent practicing on partners.

j. Lecture on use of gingival retraction cords, types of cords, placement, and removal of cords.

k. Lab on placement and removal of retraction cords and performance evaluation—lab period shall be spent practicing on mannequins.

l. Lab on placement of cavity liners, placement of temporary restorations, fabrication and placement of temporary crowns, placement of periodontal dressings, placement of post-surgical packs, performance of acid-etch technique, placement and removal of wedges and matrices, performance evaluation.

m. Cardiopulmonary Resuscitation, Course "C", Basic Life Support for Health Care Providers as defined by the American Heart Association or its equivalent. This course may count for eight hours of instruction provided this course has been successfully completed within six months prior to certification.

n. Clinical exam instructions.

o. Clinical and written exams.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (February 1993).

§504. Authorized Providers of Instruction for Expanded Duty Dental Assistant Courses

A. Louisiana State University School of Dentistry; or

B. Louisiana state schools of allied health including vocational technical schools; or

C. designated dentists, and/or dental hygienists, and/or EDDAs under the direction of the institutions listed in Subsections A and B provided they have been legally trained to serve as instructors and have had a minimum of five years experience as a dental assistant; or

D. other entities as may be designated by the board.

E. The board reserves the right to randomly monitor any and all courses given under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (February 1993).

§505. Expanded Duty Dental Assistant Certificate Confirmation Fee and Re-Confirmations

Expanded duty dental assistants shall be charged an initial certification confirmation fee. A certificate re-confirmation fee shall be renewed no more than once in every three calendar years. Said fees shall be determined according to Chapter 4 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (February 1993).

C. Barry Ogden
Executive Director

RULE

Department of Health and Hospitals Board of Dentistry

Dental Hygienists Authorized Duties

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq, and the Dental Practice Act, R.S. 37:760(8), notice is hereby given that the Board of Dentistry has amended the following rule.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 7. Dental Hygienists

§701. Authorized Duties

A. A dental hygienist is defined as a graduate of a training school for dental hygienists, which is approved by the Louisiana State Board of Dentistry, who is licensed by this board and requested to practice as such in the state of Louisiana.

B. A dental hygienist may only perform the following under the direct on-premises supervision of the dentist who employs her or him, or under the direct on-premises

supervision of a dentist who assumes responsibility for the treatment of that patient.

1. Operate in the office of a licensed dentist only under his direct on-premises supervision.

2. Operate in any public institution or school but at all such times under the general direction and supervision of a licensed dentist.

3. Perform all of the specific duties listed in R.S. 37:766 and those authorized for dental assistants.

4. Remove socket dressings, irrigate oral wounds and remove sutures.

5. Perform oral prophylaxis.

6. Apply topical medicaments.

7. Polish fillings including the polishing to smooth any overhanging margins of fillings or uneven surface or the enamel.

8. Insert and remove temporary fillings.

9. Place and remove rubber dam.

10. Perform deep scaling, root planing, polishing with hand or mechanical instruments.

11. Prepare and place initial periodontal packs, remove, and prepare subsequent periodontal packs.

12. Take impression for study models.

13. Acid-etch and placement of fissure sealant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 19: (February 1993).

C. Barry Ogden
Executive Director

RULE

**Department of Health and Hospitals
Board of Dentistry**

Fees and Costs (LAC 46:XXXIII.411 and 420)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and the Dental Practice Act R.S. 37:751 et seq., and R.S. 37:760(8), notice is hereby given that the Board of Dentistry has amended the following rule.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 4. Fees and Costs

Subchapter B. General Fees and Costs

§411. Miscellaneous Fees and Costs

For providing the services indicated, the following fees shall be payable in advance to the board:

* * *

H. Up to one-half of an official list of all licensed dentists or all licensed dental hygienists \$250

I. Handling and mailing costs, per page . . \$ 1

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 14:792 (November 1988), amended LR 19: (February 1993).

* * *

**Subchapter F. Fees for Expanded Duty Dental Assistant
§420. Certificate Confirmation and Re-Confirmation
Fees**

For processing applications for certificate confirmations, the following fees shall be payable in advance to the board:

1. Initial certificate confirmation fee \$25

2. Certificate re-confirmation fee (not more than once every three calendar years) \$25

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (February 1993).

C. Barry Ogden
Executive Director

RULE

**Department of Health and Hospitals
Board of Dentistry**

Hepatitis B Virus and Human Immunodeficiency Virus
(LAC 46:XXXIII.1206)

(Editor's Note: LAC 46:XXXIII.1206, which appeared on pages 742 through 743 of the July 20, 1992 Louisiana Register, is being republished to correct a typographical error.)

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

**Chapter 12. Transmission Prevention of Hepatitis B
Virus and Human Immunodeficiency Virus**

§1206. Exception; Informed Consent of Patient

A. Notwithstanding the prohibition of §1205 of this Chapter, a seropositive dental health care provider may nonetheless perform or participate in an exposure-prone procedure with respect to a patient when each of the following four conditions is met.

1. The dental health care provider has affirmatively advised the patient, or the patient's lawfully authorized representative, that the dental health care provider has been diagnosed as HIV seropositive and/or HBV seropositive as the case may be.

2. The patient, or the patient's lawfully authorized representative, has been advised of the risk of the dental health care provider's transmission of HIV and/or HBV to the patient during an exposure-prone invasive procedure. Such information shall be communicated personally by the dentist to the patient or the patient's lawfully authorized representative.

3. The patient, or the patient's lawfully authorized representative, has subscribed a written instrument setting forth:

a. identification of the exposure-prone procedure to be performed by the dental health care provider with respect to the patient;

b. an acknowledgement that the advice required by Subsection A.1 and 2 hereof have been given to and understood by the patient or the patient's lawfully authorized representative; and

c. the consent of the patient or the patient's lawfully authorized representative, to the performance of or participation in the designated procedure by the dental health care provider.

4. The dental health care provider's HIV and/or HBV seropositivity has been affirmatively disclosed to each dental health care provider or other health care personnel who may participate or assist in the exposure-prone procedure.

B. Consent given pursuant to Subsection A of this Section may be revoked by a patient, or a patient's lawfully authorized representative, at any time prior to performance of the subject procedure by any verbal or written communication to the dental health care provider expressing an intent to revoke, rescind or withdraw such consent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:742 (July 1992), repromulgated LR 19: (February 1993).

C. Barry Ogden
Executive Director

RULE

Department of Health and Hospitals Board of Physical Therapy Examiners

Physical Therapist Assistant (LAC 46:LIV. Chapters 1-3)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Board of Physical Therapy Examiners amends LAC 46:LIV. Chapters 1 and 3.

These rules clarify the licensure, practice, and supervision of physical therapist assistants. Slight changes and clarifications were made regarding the reporting of continuing education hours.

Copies of these rules may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804; telephone (504)342-5015. Please refer to Document 9302#006 when inquiring about this rule.

Rebecca Lege'
Board Member

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Preceptorship Requirements (LAC 46:LXXXV.1103)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S.49:950 et seq., and the Louisiana Veterinary Practice Act, R.S.37:1518 and 37:1523 et seq., the Louisiana Board of Veterinary Medicine has amended LAC 46:LXXXV.1103 as follows:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 11. Intern Program

§1103. Definitions

* * *

A.1. Repealed as of March 20, 1993.

2. On and after July 1, 1992, the program shall consist of:

a. Not less than five weeks in training in an approved private clinical practice situation under the direct supervision of a practicing licensed veterinarian.

b. Repealed as of March 20, 1993

B.-C...

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 16:232 (March 1990), amended by the Department of Health and Hospitals, Board of Veterinary Medicine LR 19: (February 1993).

Vikki Riggle
Executive Director

RULE

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

Personal Care Attendant Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medicaid Program.

RULE

Personal Care Attendant waiver services are provided under the provisions of the approved waiver document, and requirements and guidelines contained in the Personal Care Attendant Waiver Provider Manual.

J. Christopher Pilley
Secretary

RULE

**Department of Health and Hospitals
Office of Public Health**

Tanning Facility

The Department of Health and Hospitals, Office of Public Health, Environmental Health Division, Sanitarian Services Section, Food and Drug Unit, has amended the following rules pertaining to the regulation of tanning facilities and equipment. This rule is in response to Act 432 of 1992 which amended the Tanning Facility Regulation Act of 1990 and amendments to the tanning facility regulation final rule which were submitted by the department during a public hearing on January 28, 1992.

The text below represents amended sections of the current tanning facilities and equipment regulations which were promulgated and became effective March 20, 1992.

§49:8.0020 Definitions

Act—Tanning Facility Regulation Act unless the text clearly indicates a different meaning. All definitions and interpretations of terms given in the Act shall be applicable also to such terms when used in these regulations.

Authorized Agent—an employee of the department designated by the state health officer to enforce the provisions of the Act. The responsibility for implementing the provisions of the Act has been assigned to the Food and Drug Unit of the Office of Public Health of the Department of Health and Hospitals.

Consumer — any individual who is provided access to a tanning facility which is required to be registered pursuant to provisions of these regulations.

Department—the Department of Health and Hospitals.

Formal Training—a course of instruction approved by the department and presented under formal classroom conditions by a qualified expert possessing adequate knowledge and experience to offer a curriculum, associated training, and certification testing pertaining to and associated with the correct use of tanning equipment.

Individual—any human being.

Operator—any individual designated by the registrant to operate or to assist and instruct the consumer in the operation and use of the tanning facility or tanning equipment.

Persons—any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision or agency thereof, and any legal successor, representative, agent, or agency of these entities.

Phototherapy Device—a piece of equipment that emits ultraviolet radiation and is used by a licensed health care professional in the treatment of disease.

Registrant—any person who has filed for and received a certificate of registration-permit issued by the department as required by provisions of these regulations.

Secretary—The secretary of the Department of Health and Hospitals.

State Health Officer—the employee of the department who is the chief health care official of the state as provided for in R.S. 40:2.

Tanning Equipment—ultraviolet or other lamps and equipment containing such lamps intended to induce skin tanning through the irradiation of any part of the living human body with ultraviolet radiation.

Tanning Facility—any location, place, area structure, or business which provides consumers access to tanning equipment. For the purpose of this definition, tanning equipment registered to different persons at the same location and tanning equipment registered to the same person, but at separate locations, shall constitute separate tanning facilities.

Tutor—a person appointed to have the care of the person of a minor and the administration of his or her estate.

Ultraviolet Radiation—electromagnetic radiation with wavelengths in air between 200 nanometers and 400 nonometers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19: (February 1993).

§49:8.0030 Exemptions

* * *

3. Any individual is exempt from the provisions of these regulations to the extent that such individual owns tanning equipment exclusively for non-commercial use.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19: (February 1993).

§49:8.0040 Certificate of Registration - Permit

* * *

4. A fee of \$50 shall accompany each initial application for a certificate of registration - permit. Make check or money orders payable to the Food and Drug Unit/Department of Health and Hospitals.

5. Each tanning facility operating within the state for which an application for registration - permit and fee has been received by the department shall be issued a temporary registration - permit until such time that an inspection of the tanning facility and equipment can be made and it is determined that a permanent registration - permit to operate can be issued.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19: (February 1993).

§49:8.0060 Renewal of Certificate of Registration - Permit

* * *

2. An annual renewal fee of \$25 shall accompany each annual renewal. Make check or money order payable to the Food and Drug Unit/Department of Health and Hospitals.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19: (February 1993).

§49:8.0090 Prohibited Acts; Advertisement

* * *

3. No person or tanning facility may claim health benefits from the use of a tanning device unless such claims have been approved in advance by the state health officer.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19: (February 1993).

§49:8.0100 Denial, Suspension, or Revocation of a Certificate of Registration - Permit

* * *

(4) For failure to allow authorized representatives of the department to enter the tanning facility during normal business hours for the purpose of determining compliance with the provisions of these regulations, the Tanning Facility Regulation Act, conditions of the certificate of registration - permit, or an order of the department.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19: (February 1993).

§49:8.0120 Warning Signs Required

* * *

2. The sign required by this Section shall be printed in upper and lower case letters which are at least one-half inch and one-quarter inch in height, respectively, and shall contain the following warnings:

"DANGER - ULTRAVIOLET RADIATION

- Follow instruction.
- Avoid overexposure. As with natural sunlight, repeated exposure to ultraviolet radiation can cause chronic sun damage characterized by premature aging of the skin, wrinkling, dryness, fragility and bruising of the skin, and skin cancer.
- Wear protective eyewear.

FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR PERMANENT INJURY TO THE EYES

- Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using sunlamp or tanning equipment if you are using medications or have a history of skin problems or believe that you are especially sensitive to sunlight. Pregnant women or women taking oral contraceptives who use this product may develop discolored skin.

IF YOU DO NOT TAN IN THE SUN YOU ARE UNLIKELY TO TAN FROM THE USE OF ULTRAVIOLET RADIATION OF TANNING EQUIPMENT"

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19: (February 1993).

§49:8.0170 Operational Requirements

A. Each tanning facility must be operated under the requirements set forth by R.S. 40:2713.

B. Each tanning facility shall establish and adhere to effective procedures for cleaning and sanitizing each tanning bed or booth as well as protective eyewear before and after use of such equipment by each consumer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19: (February 1993).

§ 49:8.0180 Information Provided to Consumers, Warnings

A. Each tanning facility operator shall provide each consumer, prior to initial exposure, a written warning statement as required by R.S. 40:2714(A). Such warning statements shall be signed by each consumer and maintained permanently on file at the tanning facility. A copy of the signed warning statement shall be given to each consumer. Copies of such warning statements shall be available for review during inspections by duly authorized agents of the state health officer. The written warning statement shall warn that:

1. failure to use eye protection provided to the customer by the tanning facility may result in damage to the eyes;
2. overexposure to ultraviolet light causes burns;
3. repeated exposure may result in premature aging of the skin and skin cancer;
4. abnormal skin sensitivity or burning may be caused by reactions of ultraviolet light to certain:
 - a. foods;
 - b. cosmetics;
 - c. medications, including tranquilizers, diuretics, antibiotics, high blood pressure medicines, and oral contraceptives;
5. any person taking prescription or over-the-counter drugs should consult a physician before using a tanning device;

6. a person should not sunbathe before or after exposure to ultraviolet radiation from sunlamps.

B. Consumer warning statements acknowledged by each consumer by signature prior to initial exposure shall be maintained on file within the tanning facility and shall be made readily available for review by authorized agents of the Department of Health and Hospitals, Office of Public Health.

C. The registrant shall maintain for six years a record of each consumer's total number of tanning visits, dates, and duration of tanning exposures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19: (February 1993).

§49:8.0200 Provisions for Minors

Before any person between 14 and 18 years of age uses a

tanning device, the tanning facility shall secure a statement signed at the tanning facility by the person's parent or tutor stating that the parent or tutor has read and understood the warnings given by the tanning facility, consents to the minor's use of a tanning device, and agrees that the minor will use the protective eyewear that the tanning facility provides. A person 14 years of age shall be accompanied by a parent or tutor when using a tanning device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19: (February 1993).

J. Christopher Pilley
Secretary

RULE

Department of Health and Hospitals Office of Public Health

HIV Reporting

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, has amended the Sanitary Code, State of Louisiana, Chapter II, Section 2:003 to read as follows:

2:003 The following diseases are hereby declared reportable:

Acquired Immune Deficiency Syndrome	Malaria
Amebiasis	Measles (rubeola)*
Anthrax	Meningitis (Haemophilus)
Aseptic meningitis	Meningococcal infection (including meningitis)*
Blastomycosis	Mumps
Botulism*	Mycobacteriosis, atypical***
Brucellosis	Ophthalmia neonatorum**
Campylobacteriosis	Pertussis (whooping cough)
Chancroid**	Plague*
Cholera*	Poliomyelitis
Chlamydial infection**	Psittacosis
Diphtheria*	Rabies (animal and human)
Encephalitis (specify primary or post-infectious)	Rocky Mountain Spotted Fever
Erythema infectiosum (Fifth Disease)	Rubella (German measles)*
Foodborne illness*	Rubella (congenital syndrome)
Genital warts**	Salmonellosis
Granuloma Inguinale**	Shigellosis
Gonorrhea**	Syphilis**
Hepatitis, Viral (specify type)	Tetanus
	Trichinosis

Herpes (genitalis/ neonatal)**
Human Immunodeficiency Virus (HIV) infection****
Legionellosis
Leprosy
Leptospirosis
Lyme Disease
Lymphogranuloma Venereum**

Tuberculosis***
Tularemia
Typhoid fever
Typhus, murine (fleaborne, endemic)
Vibrio infections (excluding cholera)
Yellow fever*

Report cases on green EPI-2430 card unless indicated otherwise below.

*Report suspected cases immediately by telephone. In addition, all cases of rare or exotic communicable diseases and all outbreaks shall be reported.

**Report on STD-43 form. Report cases of syphilis with active lesions by telephone.

***Report on CDC 72.5 (f. 5.2431) card.

****Report on Lab 94 form (Retrovirus). Name and street address are optional but city and ZIP code must be recorded.

All reportable diseases and conditions other than the venereal diseases, tuberculosis and those conditions followed by asterisks should be reported on an EPI-2430 card and forwarded to the local parish health unit or the Epidemiology Section, Box 60630, New Orleans, Louisiana 70160, phone (504) 568-5005.

Other Reportable Conditions

Cancer	Severe under-nutrition (severe anemia, failure to thrive)
Complications of abortion	Sickle Cell Disease (newborns)
Congenital Hypothyroidism	Spinal cord injury*****
Lead poisoning	Sudden Infant Death Syndrome (SIDS)
Phenylketonuria	
Reye Syndrome	
Severe traumatic head injury*****	

*****Report on DPP-3 form; preliminary telephone report from emergency room encouraged (504) 568-2509.

J. Christopher Pilley
Secretary

RULE

Department of Labor Office of Workers' Compensation

Medical Reimbursement Schedules (LAC 40:I.Chapters 25-51)

(Editor's Note: The following rules, which appeared on pages 53 and 54 of the January 20, 1993 Louisiana Register, are being republished to correct typographical errors.)

In accordance with R.S. 49:950 of the Louisiana Administrative Procedure Act, and under the authority of R.S. 23:1034.2 of Act 938 of 1988 Regular Louisiana Legislative Session and R.S. 23:1203, the director of the Office of Workers' Compensation has adopted immediate medical reimbursement schedules.

The purpose of the Medical Reimbursement Schedules is to coordinate an efficient program to administer medical services to injured workers. The medical reimbursement schedules will include fee schedules for drugs, supplies, hospital care and services, medical and surgical treatment and any non-medical treatment recognized by laws of this state as legal and due under the Workers' Compensation Act and is applicable to any person or corporation who renders such care, services or treatment or provides such drugs or supplies to all employees covered by Chapter 10 of Title 23 of the Revised Statutes of 1950.

Additionally, Act 938 mandates the promulgation of a medical reimbursement fee schedule by the director of the Office of Workers' Compensation effective January 1, 1989.

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

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

- Chapter 25. Hospital Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 29. Pharmacy Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 31. Vision Care Services, Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 33. Hearing Aid Equipment and Services Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 35. Nursing/Attendant Care and Home Health Services Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 37. Home and Vehicle Modification Reimbursement Schedule, Billing Instructions and Maintenance Procedures
- Chapter 39. Medical Transportation Reimbursement Schedule, Billing Instructions and Maintenance Procedures
- Chapter 41. Durable Medical Equipment and Supplies Reimbursement Schedule, Billing Instruction and Maintenance Procedures

- Chapter 43. Prosthetic and Orthopedic Equipment
- Chapter 45. Respiratory Services Reimbursement Schedule, Billing Instructions and Maintenance Procedures
- Chapter 47. Miscellaneous Claimant Expenses Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 49. Vocational Rehabilitation Consultant Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 51. Medical Reimbursement Schedule, and Billing Instructions

These rules are in effect with dates of service beginning November 1, 1992. A copy of the reimbursement schedule is available for purchase at \$.25 a page and can be obtained by contacting Judy Albarado at (504) 342-7559 or at the Office of Workers' Compensation Administration, Box 94040, Baton Rouge, LA 70804-9040 or 1001 North Twenty-third Street, Baton Rouge, LA 70804.

Alvin J. Walsh
Director

RULE

Department of Revenue and Taxation Tax Commission

Ad Valorem Tax (LAC 61:V.Chapters 7-35)

In accordance with Provisions of the Administrative Procedure Act R.S.49:950 et seq., and in compliance with statutory law administered by this agency as set forth in R.S.47:1837, notice is hereby given that the Tax Commission has amended sections of the Louisiana Tax Commission Real/Personal Property rules and regulations for use in the 1993 (1994 Orleans Parish) tax year.

Copies of this rule can be obtained from the Office of the State Register at 1051 North Third Street, Baton Rouge, LA 70802 or by calling the State Register at (504) 342-5015.

Malcolm B. Price, Jr.
Chairman

RULE

**Department of Social Services
Office of Family Support**

Food Stamp Disaster Program (LAC 67:III.1713)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamp Program.

This rule is necessary to establish the emergency food assistance program declarable by the United States Department of Agriculture in times of disaster.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 17. Administration

Subchapter C. Food Stamp Disaster Program

§1713. Emergency Food Assistance Program for Disaster Victims

A. Under the authority of Section 5(h)(1) of the Food Stamp Act of 1977 and 7 CFR Part 280, the Department of Social Services, Office of Family Support, does hereby establish an Emergency Food Assistance Program for victims of disaster.

B. This program provides emergency food stamp assistance to households in an area which has been included in a food stamp disaster declaration. The secretary of the U.S. Department of Agriculture (USDA), or his designee, determines the areas to be included in such a declaration, the temporary eligibility standards, grant amounts, and duration of the program.

C. In order for a parish or community to be eligible for inclusion in a food stamp disaster declaration, the following criteria must be met.

1. Normal commercial channels for food distribution were disrupted by the disaster.
2. Normal food distribution channels were restored.
3. The normal, ongoing Food Stamp Program is unable to expeditiously handle the volume of households affected by the disaster.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 280 and Section 5(h)(1) of the Food Stamp Act of 1977.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:939 (September 1992), amended LR 18:1351 (December 1992), LR 19: (February 1993).

**Gloria Bryant-Banks
Secretary**

RULE

**Department of Social Services
Office of Family Support**

**Individual and Family Grant Program
(LAC 67:III.Chapter 65)**

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 10, Individual and Family Grant Program. This change is necessary to amend the maximum grant and flood insurance amounts in the Individual and Family Grant Program.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 10. Individual and Family Grant Program
Chapter 65. Application, Eligibility, and Furnishing Assistance**

Subchapter C. Need and Amount of Assistance

§6501. Maximum Grant Amount

A. The maximum grant amount in the IFG Program for Federal Fiscal Year October 1991 through September 1992 is \$11,500.

B. The amount will be adjusted at the beginning of each federal fiscal year to reflect changes in the Consumer Price Index for All Urban Consumers published by the U. S. Department of Labor.

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131 and F.R. 56:58378.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:444 (June 1989), LR 15:744 (September 1989), amended by the Department of Social Services, Office of Family Support, LR 17:474 (May 1991), amended LR 17:766 (August 1991), LR 17:888 (September 1991), LR 18:939 (September 1992), LR 19: (February 1993).

§6502. Flood Insurance

A. In order to be eligible for assistance under the IFG Program, an individual or family must agree to purchase adequate flood insurance and maintain such insurance for three years or as long as they live in the residence to which the grant assistance relates, whichever is less.

B. For Federal Fiscal Year October 1991 through September 1992, the dollar value of the required flood insurance policy for housing and personal property grants where the applicant resides in a flood zone is \$7,000 building and \$4,500 contents for a homeowner, and \$11,500 contents for a renter.

C. These amounts will be adjusted at the beginning of each federal fiscal year to reflect changes in the Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor.

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131 and F.R. 56:58378.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:444 (June 1989), LR 15:744 (September 1989). Amended by the Department of Social Services, Office of Family Support, LR 17:474 (May

Gloria Bryant-Banks
Secretary

RULE

**Department of Social Services
Rehabilitation Services**

Supported Employment Program

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Social Services, Louisiana Rehabilitation Services (LRS), hereby amends its Supported Employment Program as follows:

LRS Policy, Section XI

(A) (1). The client must meet LRS's eligibility criteria for severely disabled (Order of Selection Category I); and

(A) (2). The client must have an employment history which indicates that traditional competitive employment has not occurred or has been interrupted or intermittent as a result of substantial vocational handicaps; and

(A) (3). The client must be reasonably expected to achieve competitive employment through the supported employment program; and

* * *

(A) (5). The client must continue to need on-the-job monitoring by a job coach/trainer at frequent intervals in order to maintain employment (at least two visits per month at the jobsite or, if off-site monitoring is more appropriate, off-site monitoring of two off-site meetings with the individual and one employer contact per month is allowable).

* * *

(B) (2). Supported Employment services will be recorded on the LRS client's Individualized Written Rehabilitation Program (IWRP).

(B) (3). The Supported Employment provider will be responsible for providing the LRS counselor with a monthly progress report.

* * *

(C) (4). Transitional employment is an authorized supported employment option for individuals with chronic mental illness.

* * *

(D) (2). The time frame for this LRS service is not to exceed 18 months, unless a longer period to achieve job stabilization has been established in the IWRP before the individual with severe handicaps makes the transition to extended follow-up services.

(D) (3). Discrete post-employment services can be provided following transition to extend follow-along if they are unavailable from the extended follow-along services provider and are necessary to maintain employment. Examples of allowable services are:

- a. job station redesign;
- b. repair and maintenance of assistive technology;
- c. replacement of orthotic or prosthetic devices.

Gloria Bryant-Banks
Secretary

RULE

**Department of Social Services
Rehabilitation Services**

Supported Living Program

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Social Services, Louisiana Rehabilitation Services, hereby implements its policy on the Supported Living Program.

Supported Living will provide the necessary support to allow eligible individuals to reside in an individualized community living arrangement.

The support provided will be based on identified needs, and can cover the following areas:

- 1. rent or living expense subsidy;
- 2. resource information and referral;
- 3. transportation;
- 4. homemaker services;
- 5. counseling;
- 6. in-home nursing and attendant care;
- 7. social and recreational;
- 8. medical support;
- 9. independent living and social skill training;
- 10. specialized equipment and supplies;
- 11. vehicle modification;
- 12. architectural modification to a home;

The purpose of this program will be to provide support and coordinate services to enable adults with severe physical and/or cognitive disabilities to live independently in small dispersed settings.

Gloria Bryant-Banks
Secretary

RULE

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

Plan Document

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:953(B), notice is hereby given that the Board of Trustees of the State Employees Group Benefits Program has amended the Plan Document. These changes affect the eligibility and benefits sections of the plan document. This is necessary to incorporate the changes imposed by the Board of Trustees and the changes mandated by the legislature in the current plan document of benefits.

Copies of this rule can be obtained from the Office of the State Register, 1051 N. Third St., Room 512, Baton Rouge, LA 70804 and from the State Employees Group Benefits Program, 5825 Florida Boulevard, Baton Rouge, LA 70806.

James R. Plaisance
Executive Director

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Alligator Harvest (LAC 76:V.701)

The Louisiana Department of Wildlife and Fisheries and the Louisiana Wildlife and Fisheries Commission has amended the alligator regulations which govern the wild and farm alligator harvest. The alligator industry of Louisiana represents a renewable resource, valuable to the economy providing income to approximately 125 alligator farmers and in excess of 1,900 alligator hunters. The alligator farming program and the annual harvest of surplus wild and nuisance alligators is in keeping with wise wildlife management techniques based upon scientific research conducted by the Department of Wildlife and Fisheries.

Copies of these rules may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804; telephone (504)342-5015.

Bert H. Jones
Chairman

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Bait Dealers Permit (LAC 76:VII.329)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), and R.S. 56:497(C), the Louisiana Wildlife and Fisheries Commission hereby adopts the rules and regulations for a special bait dealer's permit which will allow the taking of live bait shrimp by qualified permit holders during the closed season between the spring and fall shrimp seasons.

Title 76

Wildlife and Fisheries

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§329. Special Bait Dealer's Permit

A. Policy

The special bait dealer's permit is intended solely for the benefit of the recreational fishing public which desires to use live shrimp as bait during the closed season between the spring and fall shrimp seasons. Its purpose is to allow the uninterrupted operation of those commercial establishments which sell live bait shrimp to the fishing public during the spring and fall shrimp season. The permit is not intended for the direct use of recreational fishermen, charter boats, commercial fishermen who sell dead shrimp, or for any other entity which may wish to catch shrimp for their own use during the closed season.

B. Application

1. Applications for the special bait dealer's permit will be accepted from January 1 through April 30 of each year. All applications should be mailed to the department via certified mail.

2. Applications will be accepted only from the owner of an existing business which sells or plans to sell live bait to recreational fishermen.

3. Applications must be made on forms provided by the department; all information requested must be provided before the application will be processed.

4. Applicants must show proof of having acquired all necessary licenses and permits before the permit will be issued. This includes, if relevant, boat registration, vessel license, gear license, commercial fishing licenses, and name of fisherman; wholesale/retail dealers license, state sales tax number, and a copy of the applicant's and the fisherman's valid drivers license. A background check for wildlife violations of the applicant and the fisherman will be made. Conviction of any Class II or greater wildlife violation may be grounds for denial of application.

5. Applicant must post a \$1,000 cash bond or surety bond before the permit is issued. If using a surety bond, these bonds must be issued through a bonding company or an insurance company. This bond will be forfeited if the permittee, his employee, or his contractor violates any provision of the rules and regulations concerning the special

bait dealer's permit or if the permittee, his employee, or his contractor violates any commercial fishing law or regulation while operating under the permit. Property bonds are not acceptable.

6. Before the permit is issued an agent of the department must inspect the facilities of the applicant and verify that the applicant is operating a commercial establishment which sells live shrimp to the fishing public for use as bait, and that the applicant does have facilities to maintain live shrimp. Notice to the public must be posted that live bait shrimp are available for sale. The applicant must have onshore facilities, including tanks with a minimum capacity of 500 gallons, available to hold live shrimp. These tanks must have provisions for aeration and/or circulation of the water in which live shrimp are held prior to sale. In determining total tank capacity of onshore facilities, the agent shall not count any tank with a capacity of less than 50 gallons.

7. Only the applicant, his designated employee, or his contractor may operate under the permit. If the applicant has a contract with another party who will supply live bait shrimp to him, he must provide the department written evidence of the agreement. At the time of application, the applicant will specify who will be working under the permit. Should these persons change, the applicant will notify the department in the manner specified by the permit before the new vessel or persons operate under the permit. The permit is not transferrable to any other person or vessel without previous notification to the department in the manner specified by the permit. The entire original permit must be carried on the vessel while in operation.

8. Vessel operations under this permit shall be limited to areas specified by the permittee as stipulated in his application.

C. Operations

1. Only the vessel listed in the permit can be used with the permit. Live wells, aeration tanks, and other vessel facilities to maintain live shrimp must be carried on or built into this vessel; it must be used for both taking and transporting the live shrimp. The vessel must have a minimum of one compartment or tank with a capacity of 50 gallons. No other vessel may be used under the permit. Signs which identify the vessel as working under the special bait dealer's permit shall be posted on the vessel. These signs shall be visible from either side of the vessel and from the air; the word "BAIT" and the permit number shall be placed on these signs in letters at least 12 inches high.

2. Permitted gear is limited to one trawl not to exceed 25 feet along the cork line 33 feet along the lead line. This is the only gear which can be used or carried aboard the permitted vessel while the vessel is operating under the permit; no other commercial fishing gear may be on the vessel when it is being used under permit.

3. No dead shrimp may be aboard the vessel while it is operating under the permit. All dead shrimp and all other organisms caught while taking live bait shrimp must be immediately returned to the water. Shrimp dying in onshore holding facilities may be sold for bait use only, in lots not to exceed 16 ounces in weight.

4. Bait shrimp may be taken only from sunrise to sunset; no night fishing is allowed under this permit.

5. The entire original permit must be in the possession of the person operating the vessel while it is engaged in taking shrimp under the terms of the permit.

6. Each time the permit is used the permittee must notify the department in the manner specified by the permit. Before the vessel departs the dock under the permit, the department must be advised of the time of departure and the general location in which trawling will take place; immediately after the permitted vessel returns to the dock the department must be notified of the time of return.

7. The permittee shall maintain an up-to-date record of the activities conducted under permit on forms provided by the department for that purpose. These forms shall be available for inspection by agents of the department upon request by said agents. In addition, any agent of the department shall be allowed to make an on site inspection of any facilities operating under the permit, at any time. Permittee will submit to the department, not later than September 1, the record of shrimp harvested under the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:497(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 3:210, (April 1977), amended LR 15:867 (October 1989), LR 19: (February 1993)

Bert H. Jones
Chairman

NOTICES OF INTENT

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Pesticide Waste and Pesticide Cash Sales
(LAC 7:XXIII.Chapter 131 and 132)

The Department of Agriculture and Forestry advertises its adoption of rules enacting LAC 7:XXIII.Chapter 132. These rules codify existing policies and procedures for monitoring and determining pesticide wastes. An additional rule, LAC 7:XXIII.13134, adds restrictions to the cash sale of certain pesticides.

Title 7
AGRICULTURE AND ANIMALS
Part XXIII. Pesticide

Chapter 131. Advisory Commission on Pesticides

§13134. Pesticide dealers; Restrictions on Cash Sales

Pesticide dealers shall not sell the following restricted use pesticides for currency without first visually inspecting and confirming that the person seeking to purchase said pesticide holds the proper certification:

A. Methyl parathion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3252(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 19:

Chapter 132. Pesticide Wastes

§13201. Procedures for Monitoring

A. In the course of conducting routine monitoring of pesticide use in accordance with the procedures described in §13151, the commissioner shall monitor for the presence of pesticide wastes.

B. Monitoring for the presence of pesticide wastes shall include, but not be limited to, investigations involving canceled or suspended products, spill responses, and citizen complaints.

C. The procedures for monitoring pesticide wastes shall include but not be limited to the following activities:

1. visual or other sensory observations of conditions which may support the probability or actuality of the presence of pesticide wastes;

2. inquiries into the relevant circumstances surrounding the probability or actuality of the presence of pesticide wastes which may include sample taking and analysis; and

3. a preliminary determination as to whether or not there is a presence of pesticide wastes based upon the observations and the inquiries or upon relevant data, shall be made by the director of pesticide and environmental programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3271 and R.S. 3:3273.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19:

§13203. Procedures for Determinations

When the director makes a preliminary determination as a result of monitoring or otherwise, that there is a presence of pesticide wastes as a result of monitoring or otherwise, the procedures for determining whether the concentrations of pesticide wastes exceed promulgated federal or state standards, or that the concentrations of pesticides pose a threat or reasonable expectations of a threat to human health or to the environment are as set out below.

The commissioner shall take into consideration the following:

A. the results of the analysis of samples, if available;

B. the criteria established in R.S. 3:3274(C) as of the adoption date of these regulations;

C. whether a pesticide concentration exceeds and the degree to which it exceeds the maximum concentration of pesticide

contaminants listed in Table 5 of LAC 33:V.4903 as amended through November 1992; and

D. other relevant data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3271 and R.S. 3:3274.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19:

§13205. Appropriate actions

A. When the commissioner has determined that there is a presence of pesticide wastes and that the pesticide wastes do not exceed promulgated federal or state standards, or when the commissioner determines that the concentrations of pesticides do not pose a threat or reasonable expectation of a threat to human health or to the environment, the commissioner may take one or more of the following actions:

1. issue appropriate orders to provide for proper disposal;

2. take such other action as the commissioner deems appropriate under circumstances.

B. When the commissioner has determined that there is a presence of pesticide wastes and that the pesticide wastes exceed promulgated federal or state standards, or when the commissioner determines that the concentrations of pesticides pose a threat or reasonable expectation of a threat to human health or to the environment, the commissioner may take one or more of the following actions:

1. issue appropriate protective orders to mitigate the further contribution to the accumulation of the pesticide or pesticide wastes;

2. issue remedial orders directing prompt remedial action to correct the offending situation;

3. communicate his determination to any appropriate governmental agency;

4. participate in issuing a public communication concerning the determination. Where a cooperative agreement exists, each public communication shall be issued in accordance with same;

5. take such other action as the commissioner deems appropriate under circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19:

§13207. Record Keeping

In addition to the record keeping requirements under §13157, §13159 and §13161, or otherwise, all persons conducting or having conducted activities of, generating, owning, possessing, storing, transporting, or disposing of pesticide wastes, shall keep copies of all records required by local, state or federal laws or regulations for a period of not less than three years from the receipt of any such record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19:

§13209. Transportation of Pesticide Waste

All persons transporting pesticide wastes shall transport such wastes in a manner that conforms to the procedures and requirements set forth by the Louisiana Department of Environmental Quality and the Louisiana Department of Public Safety, in addition to all other applicable local, state and federal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19:

A public hearing on the proposed adoption of these regulations will be held on March 29, 1993 in Baton Rouge, LA, at the Department of Agriculture and Forestry Building, 5825 Florida Boulevard at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at that hearing. In addition, interested persons may send data, views or arguments in writing to: Larry Lejeune, Office of Agricultural and Environmental Sciences, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806.

Bob Odom
Commissioner

**Fiscal and Economic Impact statement
for Administrative Rules
Rule Title: Pesticide Waste and Cash Sales**

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

No costs or savings to state or local governmental groups is anticipated to result from the implementation of the proposed rules.

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

No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of the proposed rules.

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

There should be no increase in costs or economic benefits to persons directly affected by the rules governing pesticide waste since these rules codify policies and procedures already in place. There should be no increase in costs to persons affected by the rule governing cash sales of methyl parathion.

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

No effect on competition or employment is anticipated.

Richard Allen
Assistant Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Forestry**

**Forest Tree Seedling Prices
(LAC 7:XXXIX.20301)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Agriculture and Forestry, Office of Forestry and the Louisiana Forestry Commission intends to amend LAC 7:XXXIX.20301, Seedling Prices.

The text of the proposed rule appears in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

Interested persons may submit comments orally or in writing until 4:30 p.m., March 31, 1993, to Paul Frey, State Forester, Box 1628, Baton Rouge, LA 70821, phone 504-925-4500.

Bob Odom
Commissioner

**Fiscal and Economic Impact statement
for Administrative Rules
Rule Title: Discount of Seedling Prices**

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

There will be no costs or savings realized during the implementation of this section.

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

There may be an initial loss in revenues due to the ability of current bulk customers to take advantage of the discount. This revenue loss should be counteracted by larger seedling sales to current customers and a return of lost customers as a result of this discount.

The initial loss of revenue should not exceed \$50,000 and the anticipated increased revenues generated could exceed \$200,000.

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

Any person or group purchasing a large enough quantity of seedlings to be eligible for our bulk sale discounts would benefit from our reduced seedling prices. (See table in B.1 in the emergency rule.)

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

There is no anticipated impact from the proposed action on any in-state company providing similar services.

Maintaining a sufficient seedling production total will allow us to keep all three nurseries operating. Closure of any of these nurseries would greatly impact the local economy of these areas by eliminating a source of

employment for residents and revenue for local businesses.

Richard Allen
Assistant Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Minimum Charge for Sick Leave

The State Civil Service Commission will hold a public hearing on Wednesday, March 3, 1993, to consider amendments to Civil Service rules 6.28, 11.7(c) and 11.13(c) and the addition of Civil Service Rules 11.7(d) and 11.13(e). The public hearing will begin at 9 a.m. in the Hearing Room located on the second floor, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

Consideration will be given to the following:

Amend Rule 6.28

6.28 Compensation for On-Call Duty/Shift Work

(a) The director may authorize compensation for on-call/shift work through policy directives which establish guidelines for compensation for employees performing these types of work. These guidelines will establish the maximum authorized amounts which may be utilized. The commission may authorize amounts at levels higher than established by the director.

(b) On-call compensation is for hours worked in excess of regularly scheduled hours of duty, when the worker is available for call back to his/or duty station, work-ready, within a specified period of time, at the direction of his/her appointing authority. On-call compensation is in addition to the employee's regular pay and is not to be included in terminal leave payments allowed under other sections of the rules. On-call compensation shall not be granted to an employee for his/her regularly scheduled hours of duty. Further, when an employee is called back he/she shall be considered in duty status and eligible for overtime compensation.

(c) ...

Explanation: With these changes agencies will be able to compensate employees for on-call duty with either monetary payments or the granting of compensatory time after receiving the appropriate authorization from the Department of Civil Service.

Proposed Amendment to Civil Service Rule 11.7(c) and Addition of Rule 11.7(d)

11.7 Use of Annual Leave

(a)-(b) ...

(c) Each appointing authority shall select one of the following methods to charge the annual leave records of all employees:

(1) the minimum charge to annual leave records shall not be less than one-half hour.

(2) the minimum charge to annual leave records shall not be less than one-tenth (.1) of an hour, or six minutes.

(d) The appointing authority shall use the same method for charging to leave records for both annual and sick leave.

Explanation: The changes to this subsection would allow a choice between two methods for charging against annual leave records. Whichever method is chosen by the appointing authority, that same method shall be used for all classified employees and for both annual and sick leave charges.

Proposed Amendment to Civil Service Rule 11.13(c) and addition to rule 11.13(e).

11.13 Use of Sick Leave

(a)-(b) ...

(c) Each appointing authority shall select one of the following methods to charge the sick leave records of all employees:

(1) the minimum charge to sick leave records shall not be less than one-half hour.

(2) the minimum charge to sick leave records shall not be less than one-tenth (.1) of an hour, or six minutes.

(d) ...

(e) The appointing authority shall use the same method for charging to leave records for both annual and sick leave.

Explanation: The changes to this subsection would allow a choice between two methods for charging against sick leave records. Whichever method is chosen by the appointing authority, that same methods shall be used for all classified employees and for both annual and sick leave charges.

Persons interested in making comments relative to this proposal may do so at the public hearing or by writing to the director of State Civil Service at Box 94111, Baton Rouge, LA 70804-9111.

If any special accommodations are needed, please notify us prior to this meeting.

Herbert L. Sumrall
Director

NOTICE OF INTENT

Department of Economic Development Office of Financial Institutions

Sale of Certain Annuities by State Chartered Banks (LAC 10:I.571 and 573)

Under the authority granted by R.S. 6:121 to promulgate regulations and R.S. 6:242 to define the incidental powers of state-chartered banks, the commissioner of financial institutions issues the following rule for the purpose of providing a means by which state chartered banks may have authority to sell fixed and variable annuities. The commissioner issues this rule in consideration of its impact on the dual banking system and in consideration of the public interest in the business of banking as envisioned by R.S. 6:5.

**Title 10
FINANCIAL INSTITUTIONS**

Part I. Banks

Chapter 5. Powers of Banks

Subchapter E. (Reserved) Sale of Annuities

§571. Definitions

The commissioner has determined that the following terms are not defined under the Louisiana Banking Code, R.S. 6:1 et seq., and adopts the following definitions for all purposes set forth therein.

Fixed Annuity—a form of financial investment instrument whose primary function is to pay periodically during the life of the annuitant or, during a term fixed by contract, but not upon the occurrence of a loss on a specified subject by specified perils.

Insurance—a contract, the primary purpose of which is for a stipulated consideration one party undertakes to compensate the other for loss on a specified subject by specified perils.

Variable Annuity—a form of financial investment instrument whose primary function is to pay periodically during the life of the annuitant or during a term fixed by contract (but not upon the occurrence of a loss on a specified subject by specified perils) an amount based upon the value of the securities portfolios in which an investment is made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, 6:242 and 6:5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:

§573. General Provisions

A. Upon approval of the commissioner of financial institutions, a state-chartered bank and/or its subsidiary and employees may engage in the sale of fixed or variable annuities and earn commissions thereon.

B. A state chartered bank and/or its subsidiary and employees shall obtain any license(s) as may be required by and available from the Louisiana Department of Insurance before engaging in the sale of fixed or variable annuities.

C. In order to obtain approval, a state-chartered bank that desires to engage in the sale of fixed or variable annuities pursuant to this rule shall submit a written proposal covering the following items to the commissioner of financial institutions:

1. a description of the type or types of annuities to be sold;

2. the name of each company whose annuities are to be sold and its most recent rating compiled by at least two nationally recognized rating services;

3. the name of each employee engaging in the sale of annuities;

4. a copy of the bank's policy with respect to the sale of annuities which shall include the following:

a. a description of the bank's program for servicing its customers who purchase annuities;

b. a description of the bank's marketing program;

c. copies of all annuity contracts and other documents which will be executed by the parties;

d. a statement that there will be no tying arrangements between the sale of annuities and other bank products.

D. A state-chartered bank that has been approved to engage in the sale of fixed or variable annuities must disclose in all advertising for the solicitation of such annuities and must

advise any person seeking to purchase an annuity that the annuity is not a deposit of the bank and that the annuity is not insured by the Federal Deposit Insurance Corporation or any other federal or state agency. The bank must also have any purchaser of an annuity sign a disclosure statement prior to the time of purchase in the form substantially as follows:

ANNUITIES DISCLOSURE FORM

It is important to us that you understand that an annuity is different from other investments you may purchase from _____ Bank. Please consider the following factors when purchasing an annuity.

* The annuity product is an obligation of the _____ insurance company only. It is not an obligation of _____ Bank or its subsidiaries or affiliated companies.

* The annuity product is not insured by the Federal Deposit Insurance Corporation ("FDIC") or any other federal or state agency.

* Early withdrawals from your annuity may be subject to surrender charges, taxation as ordinary income, and an additional nondeductible excise tax.

You are encouraged to consult with a tax advisor familiar with your individual situation and needs in order to determine the federal, state, local and other tax consequences associated with annuities.

By signing below, you certify that you have read and understand the information contained in this disclosure.

Date: _____
Purchaser's Signature

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, 6:242 and 6:5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:

This proposed rule is being promulgated to implement regulations and supervision applicable to state-chartered banks and the proposed authority to sell annuities. This proposed rule is to become effective May 20, 1993, or as soon thereafter as is practical upon publication in the *Louisiana Register*. All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than March 16, 1993, 4:30 p.m. to Gary L. Newport, Senior Attorney, Box 94095, Baton Rouge, LA, 70804-9095.

Larry L. Murray
Commissioner

**Fiscal and Economic Impact statement
for Administrative Rules
Rule Title: Sale of Certain Annuities by
State Chartered Banks**

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

Implementation costs will not be incurred for the proposed rule. It is anticipated that this agency will continue to utilize existing personnel and equipment in the implementation process, and the agency estimates that

there will be no additional requirements for new equipment, employee costs, or professional services. Review for compliance with the proposed rule will be conducted by this agency during the normal regulatory examination process, in accordance with R.S. 6:123A(1).

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

The proposed rule will have no effect on revenue collections of either state or local governmental units.

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

The only estimated costs anticipated for persons or non-governmental groups directly affected by this proposed rule will be those associated with personnel, equipment, supplies, and advertisement necessary to establish and maintain a department within the bank or to establish a bank subsidiary for the purpose of selling certain fixed and variable annuities. An economic benefit will result from the income generated through commissions received from the sale of fixed and variable annuities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will allow state-chartered banks to compete with other entities in Louisiana which now sell annuities. This will benefit consumers by providing increased competition and availability to consumers.

Larry L. Murray
Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Self Help Repossession (LAC 10:V.Chapter 7)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., the commissioner gives notice that rulemaking procedures have been initiated to provide for the implementation of procedures for application for, issuance of, renewal of, and revocation of a license as a Self-Help Repossession Agency, LAC 10:V.Chapter 7, pursuant to the authority granted under R.S. 6:966(J)(3)(e).

The full text of these proposed rules may be viewed in their entirety in the Emergency Rule Section of the December, 1992, issue of the *Louisiana Register*, pages 1338-1346.

This proposed rule is being promulgated to implement regulations and supervision applicable to the licensing and administration of Self-Help Repossession agencies. This proposed rule is to become effective May 20, 1993, or as soon thereafter as is practical upon publication in the *Louisiana Register*.

All interested persons are invited to submit written

comments on the proposed regulations no later than March 16, 1993, at 4:30 p.m. to Gary L. Newport, Senior Attorney, Box 94095, Baton Rouge, LA 70804-9095.

Larry L. Murray
Commissioner

**Fiscal and Economic Impact statement
for Administrative Rules
Rule Title: Self-Help Repossession**

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

The estimated implementation costs for this proposed rule will be \$8,820 in FY 92-93. This includes various operating expenses and equipment costs associated with the implementation of the proposed rule, as well as, the initial rule notification expense. Recurring implementation costs include nominal operating expenses in FY 93-94 and FY 94-95.

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

The proposed rule will result in an increase of \$32,500 in FY 92-93 and increases of \$21,250 in state revenues in FY 93-94 and FY 94-95.

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

The proposed rule establishes certain fees to be paid by an individual, partnership, or corporation licensed by this office as a repossession agency. Application and renewal fees prescribed by the proposed rule apply to an agency, its qualified certificate holder (manager), and each employee that performs the work of a reposessor as described in Section 2.1 of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition or employment in the public or private sectors.

Larry L. Murray
Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development Racing Commission

Designated Race (LAC 46:XLI.749)

The Racing Commission hereby gives notice in accordance with law that it intends to adopt the following rule.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLI. Horseracing Occupations

Chapter 7. Jockeys and Apprentice Jockeys

§749. Designated Race

A. Before the opening day of a race meeting the executive director and the stewards shall designate the added money or guaranteed stakes races or related qualifying trial races, subject to ratification by the commission, at the race meeting in which a jockey will be permitted to compete, notwithstanding the fact that the jockey is under suspension for 10 days or less for a riding infraction at the time the designated race is to be run.

B. Official rulings for riding infractions of 10 days or less must state "...The term of this suspension does not prohibit participation in designated races."

C. The stewards shall post a listing of the designated races in the jockeys' room, racing office and any other place determined to be appropriate by the stewards.

D. A suspended jockey must be named at the time of entry to participate in any designated race.

E. A day in which a jockey participated in one designated race while on suspension does not count as a suspension day.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 19:

The domicile office of the Racing Commission is open from 8 a.m. to 4:30 p.m. and interested parties may contact Paul D. Burgess, Executive Director, C. A. Rieger, Assistant Executive Director, or Tom Trenchard, Administrative Manager at (504)483-4000 (LINC 635-4000), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, March 5, 1993, to 320 North Carrollton Avenue, Suite 2B, New Orleans, LA 70119-5111.

Oscar J. Tolmas
Chairman

Fiscal and Economic Impact statement for Administrative Rules

Rule Title: Designated Race LAC 46:XLI.749

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

There are no costs to implement this rule.

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

There is no effect on revenue collections.

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

The proposed rule benefits jockeys by allowing them to race in certain races while under suspension of 10 days or less.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Paul Burgess
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Environmental Quality Air Quality and Radiation Protection

Municipal Waste Combustors (LAC 33:III.3175)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2054 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the air quality regulations, LAC 33:III.3175, (Log AQ63).

This proposed rule is identical to 40 CFR 60, Subpart Ea with changes to the outline and internal references to match the Louisiana Administrative Code (LAC). The proposed rule does not deviate from the CFR except for the above referenced format. The proposed rule defines the emission standards for Municipal Waste Combustors including continuous emission monitoring, test methods and procedures, and recordkeeping and reporting requirements.

These proposed regulations are to become effective on May 20, 1993, or upon publication in the *Louisiana Register*.

A public hearing will be held March 29, 1993 at 1:30 p.m. in the DEQ Headquarters Building, Fourth Floor Hearing Room, Room 4105, 7290 Bluebonnet Boulevard, Baton Rouge, LA.

Interested persons are invited to attend and submit oral comments on the proposed amendments. Such comments should be submitted no later than one day after the public hearing, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810. Commentors should reference this proposed regulation by the Log AQ63. Check or money order is required in advance for each copy of AQ63.

This proposed regulation is available for inspection at the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA; telephone (504)342-5015, and at the

following locations from 8 a.m. until 4:30 p.m.:

Department of Environmental Quality, 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810;

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203;

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101;

Department of Environmental Quality, 3519 Patrick Street, Lake Charles, LA 70605;

Department of Environmental Quality, 3945 North I-10 Service Road West, Metairie, LA 70002;

Department of Environmental Quality, 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III
Assistant Secretary

**Fiscal and Economic Impact statement
for Administrative Rules**

Rule Title: Municipal Waste Combustors (Subpart Ea)

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

There are no costs or savings expected from this proposal.

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

No impact on revenue collections of state or local governmental units is expected from this proposal.

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

No estimated costs and/or economic benefits are expected from this proposal.

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

There isn't any anticipated effect on competition and employment.

Gus Von Bodungen
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

NORM Fee Regulations (NE06)(LAC 33:XV.Chapter 25)

Under the authority of the Environmental Quality Act, particularly R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection Division regulations, LAC 33:XV.Chapter 25, (Log NE06).

The proposed rule adds new categories to address specific activities related to NORM. These are: a. gas plants, b. warehouses, c. pipeline, d. pipe yard, e. chemical plant, f. refinery, g. manufacturing plant. The proposed change in revenue (decrease) is expected to provide a more equitable fee system for NORM licensing and reduce the costs of operating stripper wells.

These proposed regulations are scheduled to become effective on May 20, 1993, or upon publication in the *Louisiana Register*.

Title 33

Environmental Quality

Part XV. Radiation Protection

Chapter 25. Fee Schedule

APPENDIX A RADIATION PROTECTION PROGRAM FEE SCHEDULE		
	Applica- tion Fee	Annual Mainte- nance Fee
I. Radioactive Material Licensing		
A. Medical licenses:		
1. Therapy		
a. Teletherapy	530	530
b. Brachytherapy	530	530
2. Nuclear medicine diagnostic only	650	650
3. Nuclear medicine diagnostic/therapy	700	700
4. Nuclear pacemaker implantation	260	260
5. Eye applicators	260	260
6. In-vitro studies or radioimmunoassays or calibration sources	260	260
7. Processing or manufacturing and distribution of radiopharmaceuticals	1,030	875
8. Mobile nuclear medicine services	1,030	875
9. "Broad scope" medical licenses	1,030	875
10. Manufacturing of medical devices/sources	1,200	1,000
11. Distribution of medical devices/sources	900	750
12. All other medical licenses	290	290
B. Source material licenses		
1. For mining, milling, or processing activities, or utilization which results in concentration or redistribution of naturally occurring radioactive material	5,200	5,200
2. For the concentration and recovery of uranium from phosphoric acid as "yellow cake" (powered solid)	2,600	2,600
3. For the concentration of uranium from or in phosphoric acid	1,300	1,300
4. All other specific "source material" licenses	260	260

APPENDIX A RADIATION PROTECTION PROGRAM FEE SCHEDULE		
	Applica- tion Fee	Annual Mainte- nance Fee
C. Special nuclear material (SNM) licenses:		
1. For use of SNM in sealed sources contained in devices used in measuring systems	400	400
2. SNM used as calibration or reference sources	260	260
3. All other licenses or use of SNM in quantities not sufficient to form a critical mass, except as in I.A.4, I.C.1, and 2	260	260
D. Industrial radioactive material licenses:		
1. For processing or manufacturing for commercial distribution	5,150	3,875
2. For industrial radiography operations performed in a shielded radiography installation(s) or permanently designated areas at the address listed in the license	875	690
3. For industrial radiography operations performed at temporary jobsite(s) of the licensee	2,580	1,940
4. For possession and use of radioactive materials in sealed sources for irradiation of materials where the source is not removed from the shield and is less than 10,000 Curies	1,300	650
5. For possession and use of radioactive materials in sealed sources for irradiation of materials when the source is not removed from the shield and is greater than 10,000 Curies, or where the source is removed from the shield	2,580	1,290
6. For distribution of items containing radioactive material	1,300	1,300
7. Well-logging and subsurface tracer studies		
a. Collar markers, nails, etc. for orientation	260	260
b. Sealed sources less than 10 Curies and/or tracers less than or equal to 500 mCi	775	775
c. Sealed sources of 10 Curies or greater and/or tracers greater than 500 mCi but less than 5 Curies	1,300	1,300
d. Field flood studies and/or tracers equal to or greater than 5 Curies	1,950	1,950
8. Operation of a nuclear laundry	5,150	2,580
9. Industrial research and development of radioactive materials or products containing radioactive materials	650	650
10. Academic research and/or instruction	530	530
11. Licenses of broad scope:		
a. Academic, industrial, research and development, total activity equal to or greater than 1 Curie	1,300	1,300
b. Academic, industrial, research and development, total activity less than 1 Curie	775	775
12. Gas chromatographs, sulfur analyzers, lead analyzers, or similar laboratory devices	260	260
13. Calibration sources equal to or less than 1 Curie per source	260	260
14. Level or density gauges	400	400
15. Pipe wall thickness gauges	530	530
16. Soil moisture and density gauges	400	400

APPENDIX A RADIATION PROTECTION PROGRAM FEE SCHEDULE		
	Applica- tion Fee	Annual Mainte- nance Fee
17. NORM decontamination/maintenance		
a. at permanently designated areas at the location(s) listed in the license	3,000	2,500
b. at temporary jobsite(s) of the licensee	3,000	3,000
18. Commercial NORM storage	2,500	2,500
19. All other specific industrial licenses except otherwise noted	530	530
20. Commercial NORM treatment involving storage/disposal	12,000	10,000
E. Radioactive waste disposal licenses:		
1. Commercial waste disposal involving burial	675,000	675,000
2. Commercial waste disposal involving incineration of vials containing liquid scintillation fluids	5,150	2,580
3. All other commercial waste disposal involving storage, packaging and/or transfer	2,580	2,580
F. Civil defense licenses	315	260
G. Teletherapy service company license	1,300	1,300
H. Consultant licenses		
1. No calibration sources	130	75
2. Possession of calibration sources equal to or less than 500 mCi each	190	130
3. Possession of calibration sources greater than 500 mCi	260	190
4. Installation and/or servicing of medical afterloaders	350	300
II. Electronic Product Registration		
1. Medical diagnostic x-ray (per registration)	85	85
2. Medical therapeutic x-ray (per registration)		
a. below 500 kVp	200	200
b. 500 kVp to 1 MeV (including accelerator and Van de Graaf)	400	400
c. 1 MeV to 10 MeV	600	600
d. 10 MeV or greater	800	800
3. Dental x-ray (per registration)	75	70
4. Veterinary x-ray (per registration)	75	75
5. Educational institution x-ray (teaching unit, per registration)	125	75
6. Industrial accelerator (includes Van de Graaf machines and neutron generators)	400	400
7. Industrial radiography (per registration)	200	200
8. All other x-ray (per registration) except as otherwise noted	90	90
III. General licenses		
A. NORM		
1. 1-5 wellheads per NORM contaminated field	100	100
2. 6-20 wellheads per NORM contaminated field	500	500
3. Greater than 20 wellheads per NORM contaminated field	1,500	1,500
4. Stripper wells-contaminated (\$500 maximum per field)	100	100
5. NORM field storage of contaminated equipment	200	200
6. NORM Sites (other than fields) - gas plants, warehouse, pipeline, pipe yard, chemical plant, refinery, manufacturing plant	300	300

APPENDIX A RADIATION PROTECTION PROGRAM FEE SCHEDULE		
	Applica- tion Fee	Annual Mainte- nance Fee
7. Interim drum storage per NORM Waste Management Plan		
a. 10 or less drums	300	300
b. over 10 drums	1,000	1,000
8. NORM site as otherwise defined in LAC 33:XV.1403 and not exempted by LAC 33:XV.1404	100	100
B. Tritium sign	75	0
C. All other general licenses which require registration	100	100
IV. Reciprocal Recognition		
The fee for reciprocal recognition of a license or registration from another state or the NRC is the annual fee of the applicable category. The fee covers activities in the state of Louisiana for one year from the date of receipt.		
V. Shielding Evaluation (per room)		
A. Diagnostic	100	*
B. Therapeutic (below 500 kVp)	150	*
C. Therapeutic (500 kVp to 1 MeV)	250	*
D. Therapeutic (1 MeV to 10 MeV)	350	*
E. Therapeutic (10 MeV or greater)	750	*
F. Industrial and industrial radiography	350	*
VI. Device, Product, or Sealed Source Evaluation		
A. Device evaluation (each)	700	*
B. Sealed source design evaluation (each)	450	*
C. Update sheet	150	*
VII. Testing to determine qualifications of employees, per test administered	128	*
VIII. Nuclear electric generating station (per site) Located in Louisiana		283,500
Located near Louisiana (Plume Exposure Pathway Emergency Planning Zone - includes area in Louisiana)		206,000
Uranium Enrichment Facility		50,000
IX. La. Radiation Protection Division Laboratory Analysis Fees		

Sample Type	Analysis	Unit Price
Air filters: Particulate Charcoal cartridge	Gross beta	55
	Gamma	159
	Gamma/I-131	159
Milk	Gamma	170
	I-131	181
Water	Gamma	181
	I-131	181
	H-3	68
Sediment	Gamma	192
Vegetation	Gamma	181
Fish	Gamma	192
Leak test	Gamma	159
	H-3	68
NORM sample Produced water	Gamma	170
	Gamma	181
* charges are one time and do not recur		

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992), repromulgated LR 18:956 (September 1992), amended, LR 19:

A public hearing will be held on March 29, 1993, at 1:30 p.m. in the DEQ Headquarters Building, 4th Floor Hearing Room, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than March 30, 1993, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA, 70810. Commentors should reference this proposed regulation by the Log NE06.

James B. Thompson,
Assistant Secretary

**Fiscal and Economic Impact statement
for Administrative Rules
Rule Title: NORM Fee Regulations**

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

No implementation costs are anticipated. Existing staff can perform the services required by the proposed rule changes.

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

The fee changes will reduce revenue generated from an invoiced amount in fiscal year 1993 of \$1,178,880 to approximately \$517,000 in fiscal year 1994. License fees collected from some NORM licensees with stripper wells or uncontaminated wells will decrease; however, the revenue collections projected under these new proposed fees are expected to be approximately the same as those projected under the current fee schedule.

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

Some oil and gas companies will pay less in fees associated with NORM licensure.

New categories have been created. In addition, current categories concerning stripper wells have been adjusted downward to more accurately reflect current division costs. Fees for NORM decontamination and storage facilities were increased, but this increase is insignificant in relation to total revenues since this category represents only 7 percent of the total NORM fees collected.

Oil and gas projection companies will be assessed a fee per group of wellheads in a field contaminated with

NORM provided at least one of their wells are contaminated, except for stripper wells that are not NORM contaminated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is little anticipated effect on competition or employment. NORM fees are relatively small in relation to total production costs of typical companies; however, small independent oil and gas producers will pay less overall for stripper wells and specific licensees will pay slightly more.

Gustave Von Bodungen
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

The Board of Trustees of the Firefighters' Pension and Relief Fund of New Orleans and Vicinity

Direct Rollovers

The Board of Trustees of the Firefighters' Pension and Relief Fund of New Orleans and Vicinity ("Fund"), pursuant to R.S. 11:3363(F), proposes to adopt rules and regulations regarding the implementation of the provisions of Section 401(a)(31) of the Internal Revenue Code of 1986, as amended from time to time, concerning the requirements of direct rollovers of eligible retirement distributions from this fund to an eligible retirement plan.

PROPOSED RULE

A. Direct Rollovers

1. Notwithstanding any provision of the plan to the contrary, effective January 1, 1993, distributions shall be made in accordance with the following direct rollover requirements and shall otherwise comply with Section 401(a)(31) of the Internal Revenue Code and the Treasury Regulations promulgated thereunder, the provisions of which are incorporated herein by reference. The trustees shall allow a member to directly roll over his eligible rollover distribution which is paid directly to an eligible retirement plan as specified by the member.

2. For purposes of these rules and regulations, an eligible rollover distribution is any distribution from this fund of all or any portion of the balance to the credit of the member except the following:

a. any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made over any one of the following periods: the life of the member (or the joint lives of the member and the member's designated beneficiary), the life expectancy of the member (or the joint life and last survivor expectancy of the member and the member's designated beneficiary), or a specified period of 10 years or more; or

b. any distribution to the extent the distribution is required under Section 401(a)(9) of the Internal Revenue Code, relating to the minimum distribution requirements.

3. For purposes of this section, an eligible retirement plan is an individual retirement account under Code §408(a); and individual retirement annuity under Code §408(b); a qualified defined contribution plan under Code §401(a); an annuity plan under code §403(a); or any other type of plan specified under the Treasury Regulations.

4. A member shall elect to have his eligible rollover distribution directly rolled over to an eligible retirement plan by completing and filing the applicable forms before the date of distribution of his pension benefits. The member, pursuant to the provisions hereunder, must specify the eligible retirement plan to which his eligible rollover distribution will be directly paid as a direct rollover. A member may revoke any election to directly roll over his eligible rollover distribution, provided such revocation is in writing and filed with the trustees before his date of distribution of his pension benefits.

5. The trustees shall accomplish a direct rollover under Section 401(a)(31) of the Internal Revenue Code by establishing reasonable procedures in accordance with the Treasury Regulations either by a wire transfer or by mailing the distribution check directly to the eligible retirement plan specified by the member. Payment made by check must be negotiable only by the trustee of the eligible retirement plan. Payment made by wire transfer must be directed only to the trustee of the eligible retirement plan.

The trustees shall, in their sole and absolute discretion, distribute the eligible rollover distribution check directly to the member, instructing the member to deliver same to his designated eligible retirement plan, provided that if the eligible retirement plan is an individual retirement account, the check must be payable to the trustee, as trustee of the individual retirement account for the benefit of the distributee member; or if to a qualified retirement trust, the check must be payable to the trustee of the qualified plan for the benefit of the distributee member.

6. The member shall not directly roll over any eligible rollover distribution, or portion thereof, if the total amount of his eligible rollover distribution is less than \$200, or as such amount may be adjusted from time to time under Section 401(a)(31) of the Internal Revenue Code or the Treasury Regulations promulgated thereunder.

7. The member shall not directly roll over a portion of his eligible rollover distribution to an eligible retirement plan if such portion is less than \$200, or such other amount as provided under Section 6 above. The remainder of the member's eligible rollover distribution not directly rolled over shall be paid to the member.

8. The member shall directly roll over his eligible rollover distribution, or a portion thereof, only to a single eligible retirement plan. The member is prohibited from dividing his eligible rollover distribution into two or more separate distributions to be paid in direct rollovers to two or more eligible retirement plans.

9. The trustees shall treat a member's election to make or not make a direct rollover with respect to one payment in a series of periodic payments as applying to all subsequent payments in a series. The member, with respect to subsequent payments, shall at any time change his previous election to

make or not make a direct rollover by completing and filing the appropriate forms with the trustees.

10. A surviving spouse of a deceased member shall elect to have her eligible rollover distribution directly rolled over only to an individual retirement account in accordance with the provisions hereunder.

11. A spouse or former spouse alternate payee under a Qualified Domestic Relations Order shall elect to have her eligible rollover distribution directly rolled over to an eligible retirement plan as specified by the spouse or former spouse alternate payee in accordance with the provisions hereunder.

12. A non-spouse beneficiary of a deceased member is prohibited from electing a direct rollover to any eligible retirement plan.

A public hearing will be conducted by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, Wednesday, March 31, 1993, 10 a.m., 329 South Dorgenois Street, New Orleans, LA 70119. The purpose of this hearing is to consider the adoption of rules and regulations of direct rollovers concerning the requirements of direct rollovers of eligible distributions from the fund to an eligible retirement plan.

Any interested party may submit data, views, or arguments orally or in writing concerning these proposed rules at said hearing being conducted pursuant to the authority granted to the board in R.S. 49:953 and R.S. 11:3361 et seq. By direction of the board, any interested party may make inquiries concerning the adoption of these rules, no later than 4:30 p.m. March 31, 1993 to Bernard V. Nicolay, Secretary-Treasurer of the Board of Trustees, 329 South Dorgenois Street, New Orleans, LA 70119.

William M. Carrouche
Chairman

**Fiscal and Economic Impact statement
for Administrative Rules
Rule Title: Direct Rollovers**

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

The estimated implementation cost which is anticipated will be the cost of printing and distributing copies of the rules and regulations to persons making a request for a copy of such rules and regulations. Copying costs (if every participant in the Firefighters' Pension and Relief Fund requested one copy) is estimated at \$314.50.

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

Adoption and implementation of the rules and regulations of direct rollovers should not have any effect on revenue collections of state or local governmental units.

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

Adoption and implementation of the rules and regulations of direct rollovers should be not have any effect on costs and/or economic benefits to any person or entity.

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

Adoption and implementation of the rules and regulations of direct rollovers should not have any effect on competition and employment.

Paul M. Melancon, Jr.
Fund Counsel

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Board of Trustees of the Firefighters' Pension and Relief
Fund of New Orleans and Vicinity**

**Partial Buy Back and Partial Restoration
of Forfeited Credit of Service**

The Board of Trustees of the Firefighters' Pension and Relief Fund of New Orleans and Vicinity ("Fund"), pursuant to R.S. 11:3363(F), wishes to adopt rules and regulations regarding the implementation of a partial buy back and partial restoration of forfeited credits of service in accordance with the provisions of R.S. 11:3365(C).

PROPOSED RULE

A. An old or new system member shall partially buy back a portion of his forfeited credits of service and shall do so by satisfying the following requirements as set forth herein.

1. A member must have returned to employment with the Fire Department and remain in such employment for a period of four years or more.

2. The amount of a partial buy back, and accordingly a partial restoration of forfeited credits, shall be determined by calculating the amount the member withdrew of his Accumulated Employee Contributions on his initial termination of employment plus three and one-half percent of interest, compounded annually, for each calendar year the member retained his withdrawn Accumulated Employee Contributions, which total amount shall be referred to as the "total buy back amount" (interest shall be prorated for any period less than a calendar year period).

The "total buy back amount" shall be prorated by months based on the total years of forfeited credits as follows:

<u>Total Buy Back Amount</u>	<u>Monthly Buy Back Amount</u>
Total Number of Months	= For Each Month of Forfeited
of Forfeited Credits	Credit

The annual buy back amount for each forfeited year of credit shall be determined by multiplying the monthly buy back amount by the number of years (a 12 month consecutive period) the member wishes to buy back.

3. A member may restore his total number of years of forfeited credit on a piece meal basis, provided the member restores at least two or more years of forfeited credit, in

increments of 12 consecutive months. A member is prohibited from restoring his forfeited credits of service on a monthly basis and is prohibited from restoring less than two years, unless the restoration of credits is his final restoration request or the restoration request is for his total forfeited credits.

4. A year of credit shall mean a 12-month consecutive period.

5. A member shall elect a partial buy back and partial restoration of forfeited credits of service by completing and filing the applicable forms with the trustees. A member may revoke any election for a partial buy back and partial restoration, provided such revocation is in writing and filed with the trustees.

6. The trustees shall adjust the member's years of credit service as a result of the partial restoration of forfeited credits upon receipt of the annual buy back amount for each year the member elects to restore. Until the full payment of the partial buy back amount is received by the board, no adjustment or restoration of the member's forfeited credits shall be made.

7. A member is strictly prohibited hereunder from receiving his accumulated employee contributions upon his termination of employment in a form other than a full and total lump-sum payment.

8. Nothing contained herein shall be interpreted in violation of R.S. 11:3365(C) and R.S. 11:3363(C) nor shall the provisions hereunder be applied on a discriminatory basis.

A public hearing will be conducted by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, Wednesday, March 21, 1993, 10 a.m., 329 South Dorgenois Street, New Orleans, LA 70119. The purpose of this hearing is to consider the adoption of rules and regulations for partial buy back and partial restoration of forfeited credits of service pursuant to R.S. 11:3363(F) and in accordance with R.S. 11:3365(C).

Any interested party may submit data, views, or arguments orally or in writing concerning these proposed rules at said hearing being conducted pursuant to the authority granted to the board in R.S. 49:953 and R.S. 11:3361 et seq. By direction of the board, any interested party may make inquiries concerning the adoption of these rules, no later than 4:30 p.m., March 31, 1993 to Bernard V. Nicolay, Secretary-Treasurer of the Board of Trustees, 329 South Dorgenois Street, New Orleans, LA 70119.

William M. Carrouche
Chairman

**Fiscal and Economic Impact statement
for Administrative Rules**

**Rule Title: Buy Back and Partial Restoration of
Forfeited Credits of Service**

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

The only estimated implementation cost which is anticipated will be the cost of printing and distributing copies of the rules and regulations to persons making a

request for a copy of such rules and regulations. Copying cost (if every participant in the Firefighters' Pension and Relief Fund requested one copy) is estimated at \$124.80.

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

Adoption and implementation of the rules and regulations for partial buy back and partial restoration of forfeited credits of service should not have any effect on revenue collection of state or local governmental units.

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

Adoption and implementation of the rules and regulations for partial buy back and partial restoration of forfeited credits of service should not have any effect on cost and/or economic benefits to any person or entity.

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

Adoption and implementation of the rules and regulations for partial buy back and partial restoration of forfeited credits of service should not have any effect on competition and employment.

Paul M. Melancon, Jr.
Fund Counsel

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Office of Elderly Affairs**

**Long Term Care Assistance Program
(LAC 4:VII.1237)**

In accordance with R. S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend the GOEA Policy Manual, effective May 20, 1993. The purpose of this rule change is to clarify the eligibility requirements for the Louisiana Long Term Care Assistance Program. Participants shall immediately notify GOEA upon application for Medicaid benefits. Payments shall be suspended until written notification of determination of Medicaid eligibility is received.

Title 4

ADMINISTRATION

Part VII. Governor's Office of Elderly Affairs

Chapter 11. Elderly Affairs

**Subchapter E. Uniform Service Requirements
§1237. Long Term Care Assistance Program**

D. Eligible Participants

2. Medicaid Benefits

a. Applicants for Medicaid shall not receive benefits in

this program until written notification of ineligibility is received by the agency.

b. Participants shall immediately notify the agency upon application for Medicaid benefits. Payments shall be suspended until written notification of determination of Medicaid eligibility is received by the agency.

c. If Medicaid benefits are denied, and all other eligibility requirements are met, payments shall be made retroactively to the month benefits under this program ceased.

d. If a participant qualifies for Medicaid benefits, and Medicaid benefits are subsequently discontinued, the person may reapply for benefits under this program.

G. Eligibility Determinations

3. Redetermination of Eligibility

a. If an applicant is determined ineligible for benefits under this program because (s)he does not meet the requirements in Paragraph 1 of Subsection D of this Section, and the applicant's circumstances change, the applicant may reapply in accordance with §1237.F.

b. A redetermination of eligibility for this program shall be made based upon the current financial status of the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2802(D).

HISTORICAL NOTE: Adopted by the Office of the Governor, Office of Elderly Affairs, LR 18:1257 (November 1992), amended LR 19:

A public hearing on this proposed rule will be held on Tuesday, March 30, 1993, in the GOEA Conference Room, 4550 North Boulevard, Second Floor, Baton Rouge, LA 70805, at 1:30 p.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Interested persons may submit written comments to: Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374. Betty Johnson is the person responsible for responding to inquiries concerning this proposed rule. Comments will be accepted until 5 p.m., April 2, 1993.

James R. Fontenot
Director

Fiscal and Economic Impact Statement for Administrative Rules

Rule Title: Long Term Care Assistance Program

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

The proposed rule will result in some small administrative cost savings because the Governor's Office of Elderly Affairs will not have to track as many accounts receivable and will not have to process as many returns of appropriation.

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

The proposed rule change will result in increased interest revenue on state general fund dollars. The reason for this is that this agency will not be paying out, and subsequently collecting back, the long term care payments for the months that participants are pending Medicaid.

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

This proposed rule will affect participants in the Louisiana Long Term Care Assistance Program. Participants will have to notify the state agency immediately upon applying for Medicaid benefits. Payments of up to \$350 per month will be suspended until written notification of determination of eligibility for Medicaid benefits is received by the agency.

If Medicaid benefits are denied, and all other eligibility requirements are met, payments will be made retroactively to the month benefits under this program ceased.

Any redetermination of eligibility for this program shall be based upon the current financial status of the applicant.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition and employment.

James R. Fontenot
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Board of Certification of Substance Abuse Counselors

Revised Rules

Under the authority of the Substance Abuse Counselor Certification Act (the act) R.S. 37:3371-3384, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the chairman of the Louisiana State Board of Certification for Substance Abuse Counselors (LSBCSAC) gives notice that the rulemaking procedures have been initiated to amend LAC 46:LXXX by completely revising the rules which govern the LSBCSAC, the certification of substance abuse counselors, and the practice of substance abuse counseling.

The act as amended has reorganized the board. The current rules as promulgated in 1989, under a board organization which is now changed, do not include provision for all the duties required by the act. Therefore, it is necessary to restructure the operation of the board and provide appropriate rules to govern all duties required by the act.

The text of this proposed rule may be viewed in its entirety

in the emergency rule section of this issue of the *Louisiana Register*.

The proposed rule is scheduled to become effective May 20, 1993, or upon publication in the *Louisiana Register*.

All interested persons are invited to submit written comments on the proposed rule. Such comments should be submitted no later than March 31, 1993 at 4:30 p.m., to Thomas C. Tucker, Ph.D., Chairman, LSBCSAC, 141 Ridgeway, Suite 205, Lafayette, LA 70503. Commentators should reference the comments as Revised Rules.

Thomas C. Tucker, Ph.D.
Chairman

**Fiscal and Economic Impact statement
for Administrative Rules
Rule Title: Revised Rules**

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

Additional cost to the board is estimated to be \$2,000 per year. No additional cost to other state or local governmental units is anticipated.

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

Additional revenue collected by the board is estimated at \$6,000 per year. There will be no significant effect on revenue collections of other state or local governmental units.

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

Board Certified Substance Abuse Counselors will benefit from a reduction in renewal of certification fees in the amount of \$25 per year. Board approved training institutions will benefit from a reduction in annual registration fees of \$800. Board approved educational providers will benefit from a reduction in average annual fees of approximately \$75.

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

There will be no significant changes in competition or employment. However, additional individuals are expected to become board certified substance abuse counselors and qualified professional supervisors, thus retaining employment positions in a field that is experiencing reductions in force.

Thomas C. Tucker, Ph.D.,
Chairman

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Sanitary Code - Consumer Alert on Oysters

The Department of Health and Hospitals, Office of Public Health intends to amend Chapters IX, XXII, XXIII, and XXIII A of the State Sanitary Code as they relate to the wording of the warning associated with eating raw oysters. They are amended as follows:

Chapter IX. Seafood

Change 9:045 to read:

All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at point of sale with the following wording:

THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.

In addition, this message must appear on the principal display panel and top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels.

Add 9:045-1:

These changes will become effective August 20, 1993. For those individuals and/or establishments currently using the message previously approved by the State Health Officer, they may have additional time to use existing supplies not to exceed February 20, 1994.

Change last paragraph of 9:051-1 to read:

In addition, the following message must appear on the tag of each sack or other container of unshucked raw oysters:

THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.

Change 9:051-2 to read:

These changes will become effective August 20, 1993. For those individuals and/or establishments currently using the message previously approved by the State Health Officer, they may have additional time to use existing supplies not to exceed February 20, 1994.

Change 9:051-2 to 9:051-3

Chapter XXII. Retail Food Establishments: Markets

Change 22:018-2 to read:

All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at point of sale with the following wording:

THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER

FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.

In addition, this message must appear on the principal display panel and top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels.

In addition, the following message must appear on the tag of each sack or other container of unshucked raw oysters:

THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.

Add 22:018-3:

These changes will become effective August 20, 1993. For those individuals and/or establishments currently using the message previously approved by the State Health Officer, they may have additional time to use existing supplies not to exceed February 20, 1994.

**Chapter XXIII. Eating and Drinking Establishments
Change 23:006-4 to read:**

All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at point of sale with the following wording:

THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.

In addition, this message must appear on the principal display panel and top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels.

In addition, the following message must appear on the tag of each sack or other container of unshucked raw oysters:

THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.

The use of "table tents" on all tables may be used in lieu of the menu notice. Oyster bars may use "table tents" in lieu of the menu notice at the rate of one "table tent" for every four customer spaces.

Add 23:006-5:

These changes will become effective August 20, 1993. For those individuals and/or establishments currently using the message previously approved by the State Health Officer, they may have additional time to use existing supplies not to exceed February 20, 1994.

**Chapter XXIII.A. Temporary Food Service
Change 23A:005-4 to read:**

All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at point of sale with the following wording:

THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.

In addition, this message must appear on the principal display panel and top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels.

In addition, the following message must appear on the tag of each sack or other container of unshucked raw oysters:

THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.

The use of "table tents" on all tables may be used in lieu of the menu notice only. Oyster bars may use "table tents" in lieu of the menu notice at the rate of one "table tent" for every four customer spaces.

Add 23A:005-5:

These changes will become effective August 20, 1993. For those individuals and/or establishments currently using the message previously approved by the State Health Officer, they may have additional time to use existing supplies not to exceed February 20, 1994.

Interested persons may submit written comments to the following address: Frank L. Deffes, Jr., Chief, Sanitarian Services, Box 60630, New Orleans, LA 70160. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held at 10 a.m. on Tuesday, March 30, 1993 at the Jefferson Parish Health Unit First Floor Auditorium, 111 N. Causeway Boulevard, Metairie, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley
Secretary

**Fiscal and Economic Impact statement
for Administrative Rules**

Rule Title: Consumer Alert on Oysters

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

There should not be any cost or savings to state or local governmental units.

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

There should not be any effect on revenue collections of state or local governmental units.

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

There should not be any cost or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should not be any effect on competition or employment.

Larry J. Hebert, M.D.
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Certified Medicaid Enrollment Centers

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medicaid Program in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

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

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

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

PROPOSED RULE

Certified Medicaid enrollment centers will be eligible for a 50 percent cost reimbursement to offset administrative costs incurred during the process of taking Medicaid applications. Reimbursement will be granted in the form of a uniform, flat-fee rate on a per-application basis.

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

Reimbursement will only be issued on those applications which are taken by certified individuals. The application does not have to be approved by the regional Medicaid eligibility office in order for the reimbursement to be issued. However, certified enrollment centers will be subject to an audit program, and based on audit findings, any enrollment center that has above-average denial rates for the applications which it has submitted will be ineligible for reimbursement until such time that the respective enrollment center lowers its denial rate to a point within the established norm.

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

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

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

Interested persons may submit written comments to the following address: John L. Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this proposed rule. A public hearing on this matter will be held on Monday, March 29, 1993, at 9:30 a.m. in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing. Copies of this proposed rule and all other Medicaid regulations are available for review at parish Medicaid offices.

J. Christopher Pilley
Secretary

**Fiscal and Economic Impact Statement
for Administrative Rules
Rule Title: Medicaid Enrollment Center
Cost Reimbursement**

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

The proposed rule adds an estimated 900 outstationed Medicaid enrollment centers, each of which are projected

to complete approximately 150 applications per year on average. Administrative cost reimbursement for enrollment centers will be a flat rate (estimated average of \$13.50) based on 50 percent of the cost of completing a standard Medicaid application. Although the program will not be fully implemented until April 1993, DHH expects to provide retroactive reimbursement to July 1, 1992, for those centers in operation on that date. The cost to the state for reimbursement of services provided by certified outstationed Medicaid enrollment centers is estimated to be \$877,500 for FY 92/93, \$965,250 for FY 93/94 and \$1,061,775 for FY 94/95. The above estimates are related to administrative costs only. Estimates of the net effect on the total number of Medicaid eligibles and on total costs as a result of enrollment center activity have not yet been established.

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

Federal share of costs associated with adoption of this program is estimated to be \$877,500 for FY 92/93, \$965,250 for FY 93/94 and \$1,061,775 for FY 94/95.

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

No revenue impact to the facilities is expected to result from adoption of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no impact on competition or employment.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Chronically Mentally Ill Case Management

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to amend the rule for the provision of case management services to the chronically mentally ill. This proposed rule was previously published in the LR 15:478 (June 1989).

In order to comply with recent federal interpretations of policy for case management services, the bureau is no longer requiring an applicant for enrollment as a provider to the chronically mentally ill to be "approved by the Office of Human Services as having a comprehensive and adequate plan for the delivery of services in accordance with standards for case management." This approval has also been referred to as having an affiliative agreement. This portion of the provider

enrollment process will be replaced with a notarized letter of assurance from the provider that Medicaid requirements regarding recipient eligibility, provider staff qualifications and other requirements will be met. Therefore, the text of the original rule is being amended as noted below and this change will be incorporated in the provider manual.

PROPOSED RULE

2. Standards for Participation

A - C. ...

D. sign a notarized letter of assurance that the requirements of Medicaid of Louisiana will be met.

Interested persons may submit written comments to: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing is scheduled for 9:30 a.m., Monday, March 29, 1993, in the Auditorium at DOTD, 1201 Captiol 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.

J. Christopher Pilley
Secretary

**Fiscal and Economic Impact Statement
for Administrative Rules
Rule Title: Case Management for the
Chronically Mentally Ill**

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

Costs to implement this change will be minimal. Costs will be for copying and mailing new forms to all current providers and inserting changes in the provider manual. Costs for this change are not anticipated to exceed \$150. For all providers enrolling in the future this will be included as part of the usual enrollment procedure.

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

No effect is anticipated.

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

No effect is anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect of this change is unknown.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Community Care Program

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

This proposed rule may be viewed in its entirety in the Emergency Rule Section of the October, 1992, issue of the *Louisiana Register*, page 1079.

Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this rule and the current policy will remain in effect. Interested persons may submit written comments to John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this notice. Copies of this notice and all other Medicaid rules and regulations are available at the parish Medicaid offices for review by interested persons.

A public hearing on this proposed rule will be held in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA, Monday, March 29, 1993 at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley
Secretary

**Fiscal and Economic Impact statement
for Administrative Rules
Rule Title: Community Care Program**

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

Implementation of this rule is projected to decrease state expenditures by \$171,766 in SFY 1992-93, \$376,848 in SFY 1993-94; and \$1,041,663 in 1994-95.

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

Implementation of this rule is projected to decrease federal revenues by \$492,450 in SFY 1992-93; \$1,047,907 in SFY 1993-94; and \$2,729,746 SFY 1994-95.

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

Reimbursement to providers of hospital, physician, pharmacy, laboratory, and transportation services will

decrease by \$664,216 in 1992-93, \$1,424,755 in 1993-94, and \$3,771,409 in 1994-95 for these services in those parishes where the community or managed care program is implemented. It is estimated that in the Community Care Program the number of Medicaid eligibles participating will be 43,459 in SFY 1992-93; 58,675 in SFY 93-94 and 73,891 in SFY 94-95. The increase in Medicaid eligibles is due to the inclusion of additional parishes in the Community Care Program and do not reflect new Medicaid eligibles.

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

This proposed rule will have no known impact on competition or employment.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

HIV Disabled Case Management

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to amend the rule for the provision of case management services to persons disabled by HIV. This rule was previously published in the LR 15:479 (June 1989).

In order to comply with recent federal interpretations of policy for case management services, the bureau will now require a notarized letter of assurance from the provider that Medicaid requirements regarding recipient eligibility, provider staff qualifications and other requirements will be met. Therefore, the text of the original rule is being amended as noted below and this change will be incorporated in the provider manual.

PROPOSED RULE

* * *

2. Standards for Participation

A - C. ...

D. sign a notarized letter of assurance that the requirements of Louisiana Medicaid will be met.

* * *

Interested persons may submit written comments to John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing is scheduled for 9:30 a.m., Monday, March 29, 1993, in the Auditorium at DOTD, 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.

J. Christopher Pilley
Secretary

**Fiscal and Economic Impact Statement
for Administrative Rules**

Rule Title: HIV Disabled Case Management

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

Costs to implement this change will be minimal. Costs will be for copying and mailing new forms to all current providers and inserting changes in the provider manual. Costs for this change are not anticipated to exceed \$150. For all providers enrolling in the future this will be included as part of the usual enrollment procedure.

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

No effect is anticipated.

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

No effect is anticipated.

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

The effect of this change is unknown.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

High-Risk Pregnancy Case Management

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to amend the rule for the provision of case management services to high-risk pregnant women. This rule was previously published in the LR 15:480 (June 1989).

In order to comply with recent federal interpretations of policy for case management services, the Bureau is no longer requiring an applicant for enrollment as a provider to be "certified by the Office of Public Health as having adequate programming and administration to provide the service effectively and efficiently." This approval has also been referred to as having an affiliative agreement. This portion

of the provider enrollment process will be replaced with a notarized letter of assurance from the provider that Medicaid requirements regarding recipient eligibility, provider staff qualifications and other requirements will be met. Therefore, the text of the original rule is being amended as noted below and this change will be incorporated in the provider manual.

PROPOSED RULE

* * *

2. Standards for Participation

A - B. ...

C. sign a notarized letter of assurance that the requirements of Louisiana Medicaid will be met.

* * *

Interested persons may submit written comments to John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing is scheduled for 9:30 a.m., Monday, March 29, 1993, in the auditorium at DOTD, 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.

J. Christopher Pilley
Secretary

**Fiscal and Economic Impact Statement
for Administrative Rules**

Rule Title: High-Risk Pregnancy Case Management

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

Costs to implement this change will be minimal. Costs will be for copying and mailing new forms to all current providers and inserting changes in the provider manual. Costs for this change are not anticipated to exceed \$150. For all providers enrolling in the future this will be included as part of the usual enrollment procedure.

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

No effect is anticipated.

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

No effect is anticipated.

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

The effect of this change is unknown.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

ICF/MR Facility Residents Medical Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is proposing to adopt the following rule providing for the reimbursement of extraordinary medical care services for Title XIX long term care ICF/MR patients under the Medicaid program. This proposed rule is being published in accordance with the Administrative Procedure Act, R.S. 49:953(A).

This proposed rule may be viewed in its entirety in the January, 1993 issue of the *Louisiana Register*, page 12.

Interested persons may submit written comments to John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this proposed rule. A public hearing is scheduled for 9:30 a.m., Monday, March 29, 1993, in the auditorium at DOTD, 1201 Capitol Access Road, Baton Rouge, LA. Copies of this proposed rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested persons.

**J. Christopher Pilley
Secretary**

**Fiscal and Economic Impact statement
for Administrative Rules**

**Rule Title: Reimbursement for Extraordinary
Medical Care Costs for ICF/MR**

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

Implementation of this proposed rule is projected to decrease state expenditures by \$1,547,349 in SFY 1992-93; \$3,346,376 in SFY 1993-94; and 3,589,526 in 1994-95.

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

Implementation of this rule is projected to increase federal revenue by \$1,547,349 in SFY 1992-93; \$3,346,376 in SFY 1993-94; and \$3,589,526 in SFY 1994-95.

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

There are no costs or economic benefits to affected persons or non-governmental groups as services will continue to be provided at the current rates and levels. There will be an overall long term economic benefit to the state as federal support will be incorporated in the funding of extraordinary medical care services for residents of

ICF/MR facilities who meet Medicaid requirements for these services.

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

This proposed rule will have no known impact on competition or employment.

**John Futrell
Director**

**David W. Hood
Senior Fiscal Analyst**

NOTICE OF INTENT

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

**Mentally Retarded/Developmentally Disabled
Case Management**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to amend the rule for the provision of case management services to the mentally retarded/developmentally disabled. This proposed rule was previously published in the LR 16:312 (April 1990).

In order to comply with recent federal interpretations of policy for case management services, the bureau is no longer requiring an applicant for enrollment as a provider to be "certified by the Office of Mental Retardation/Developmental Disabilities as having adequate programming and administration to provide the service effectively and efficiently." This approval has also been referred to as having an affiliative agreement. This portion of the provider enrollment process will be replaced with a notarized letter of assurance from the provider that Medicaid requirements regarding recipient eligibility, provider staff qualifications and other requirements will be met. Therefore, the text of the original rule is being amended as noted below and this change will be incorporated in the provider manual.

PROPOSED RULE

2. Standards for Participation

A - B. ...

C. sign a notarized letter of assurance that the requirements of Louisiana Medicaid will be met.

Interested persons may submit written comments to: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing is scheduled for 9:30 a.m., Monday, March 29, 1993, in the Auditorium at DOTD, 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.

**J. Christopher Pilley
Secretary**

**Fiscal and Economic Impact Statement
for Administrative Rules**

**Rule Title: Mentally Retarded/Developmentally Disabled
Case Management**

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

Costs to implement this change will be minimal. Costs will be for copying and mailing new forms to all current providers and inserting changes in the provider manual. Costs for this change are not anticipated to exceed \$150. For all providers enrolling in the future this will be included as part of the usual enrollment procedure.

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

No effect is anticipated.

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

No effect is anticipated.

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

The effect of this change is unknown.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Non-emergency Medical Transportation Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing (hereinafter referred to as the bureau), is proposing to adopt the following rule in the Medicaid Program in accordance with the Administrative Procedure Act, R. S. 49:953(A).

Changes in the Transportation Program are being implemented in an effort to assure greater safety and easier access to covered medical services and more efficient utilization of non-emergency, non-ambulance medical transportation for our beneficiary population. It is projected that these changes will result in an approximate overall cost savings to Medicaid of Louisiana of \$3,522,505 for the remainder of fiscal year 1992-93 and \$19,889,943 in fiscal year 1993-94.

The changes in this rule are intended to be in addition to and not instead of regulations currently in place for this program.

PROPOSED RULE

The following additional regulations will be implemented in the non-emergency medical transportation program.

A. Enrollment Requirements:

1. a \$5000 performance bond, letter of credit or cashier's check payable to the Bureau of Health Services Financing is required;

2. a provider must wait 90 calendar days from the date his enrollment process is otherwise complete before starting to do business as a Title XIX provider of transportation services;

3. during the 90 day period a provider must publish a notice of intent to do business in the newspaper which is circulated in his geographic area (said notice to be formatted by the bureau);

4. at the time of enrollment the provider must stipulate as to whether each vehicle will be used for service to ambulatory or non-ambulatory beneficiaries;

5. each vehicle is subject to enrollment and annual inspection by the bureau. An inspection fee as determined by the bureau will be charged;

6. each vehicle must display a decal issued by the bureau; the decals will be issued for each approved vehicle upon completion of inspection beginning January 21, 1993. All currently enrolled providers of Title XIX transportation services must have each vehicle used in the transportation of beneficiaries inspected and decaled no later than April 20, 1993;

7. all enrolled vehicles must have a painted sign in 5 inch high letters displaying the name of the enrolled provider and his telephone number;

8. identification must be uniform on all provider enrollment documents, vehicle registration, inspection certificate, business logo and any other items belonging to the provider;

9. each provider of Title XIX transportation services must be covered by general liability insurance on the business entity with a minimum coverage of \$300,000 Combined Single Limit of Liability;

10. each provider must submit a notarized certificate of insurance on each vehicle;

11. all vehicle drivers must have a valid Class D (Chauffeur) license;

12. all drivers must be 25 years of age or older and proof of this must be documented in driver's personnel file;

13. all drivers must have completed a defensive driving course accredited by The National Safety Council and proof of this must be documented in driver's personnel file;

14. a participating provider must own or lease all vehicles and provide proof that vehicle registration is in the name of the company. If a vehicle is under lease the period of the lease must run concurrently with the inspection period;

15. enrolled vehicles are to be used for business purposes only except in emergency situations. If an emergency necessitates the use of a vehicle for purposes other than business, the nature of the emergency and the mileage involved must be documented on the vehicle log;

16. a provider must give the geographic location of the main office and/or substation of the business, and the geographic location of where vehicles are garaged overnight; and

17. a provider must limit his service area to the geographic boundaries established by the bureau. Any

exception to this restriction must be approved by the bureau.

B. On-going Requirements:

1. all vehicles are subject to annual inspection and must meet all requirements of the Transportation Program (except 90 day waiting period and the publication requirement);

2. all driver changes must be reported to the bureau within five working days;

3. a provider must notify the bureau of any change in vehicle(s) and comply with all enrollment requirements prior to placing a vehicle in service;

4. any provider whose vehicle is involved in an accident must give pertinent information on the insurance coverage of the vehicle to the other person(s) involved in the accident and the investigating authority;

5. all accidents must be reported to the bureau within 72 hours;

6. a separate log of total use and mileage must be maintained on each vehicle;

7. each vehicle is to be used for business purposes only except in an emergency and documentation must be made as to the nature of the emergency and the mileage involved;

8. any change in geographic location of the main office or substation, or in the geographic location of where the vehicles are garaged overnight must be reported to the bureau prior to the change;

9. a provider must report the reason for the termination of any driver within five working days of the date of the termination; and

10. a provider must not offer any type of inducement or incentive to a Title XIX beneficiary in order to solicit that beneficiary for transportation services or to secure that beneficiary's transportation "business" (i.e. handbill distribution is prohibited, verbal solicitation of clients at medical facilities is prohibited, etc.). To do so will result in sanctions against the provider of service.

C. Sanctions:

1. a transportation provider or company who is the subject of multiple valid complaints from recipients or medical providers is subject to sanction (\$100 for first occurrence, \$500 for second occurrence and \$1000 for third occurrence);

2. failure to maintain a log of total use and mileage is subject to sanction at \$1000 per day per vehicle;

3. a vehicle in service without a decal is subject to sanction at \$1000 per day;

4. driver not covered by program is subject to sanction at \$1000 per day;

5. lack of required insurance is subject to sanction at \$1000 per day per vehicle;

6. failure to timely report termination of a driver is subject to sanction of \$100 per day;

7. failure to timely report accidents is subject to sanction of \$100 per day;

8. failure to properly maintain vehicle is subject to sanction at \$100 for first occurrence, \$500 and surrender of decal for second occurrence and \$1000 and surrender of decal for third occurrence;

9. a provider is subject to partial or total hold of vendor payment while under review if suspected of improper billing practices; and

10. a provider who offers inducements or incentives in an attempt to capture business is subject to sanction which may include but not be limited to suspension and/or termination from the program.

D. Suspensions/Terminations. Effective July 1, 1993, providers may be subject to immediate suspension or termination if a provider audit shows there are substantial discrepancies in billing practices.

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

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

A public hearing is scheduled for 9:30 a.m., Monday, March 29, 1993, in the auditorium at DOTD, 1201 Capitol Access Road, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in decollete at said hearing.

J. Christopher Pilley
Secretary

**Fiscal and Economic Impact Statement
for Administrative Rules
Rule Title: Non-Emergency Medical
Transportation Program**

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

Implementation of this rule is projected to decrease state expenditures by \$910,920 in SFY 1992-93; \$5,260,890 in SFY 1993-94; and \$5,878,154 in SFY 1994-95.

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

Implementation of this rule is projected to decrease federal revenue by \$2,611,585 in SFY 1992-93; \$14,629,053 in SFY 1993-94; and \$15,404,084 in SFY 1994-95.

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

Reimbursement rates to providers of Non-emergency Medical Transportation Services will decrease by \$3,522,505 in 1992-93; \$19,889,943 in 1993-94 and \$21,282,238 in 1994-95.

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

This proposed rule may reduce the number of providers

in the Non-emergency Medical Transportation Program, however the number of providers affected cannot be projected at this time.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Physician Visits for Medicaid
Beneficiaries Under 21

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is proposing to adopt the following rule in the Medicaid Program in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

This notice of intent establishes a program of concurrent care services to Medicaid beneficiaries up to age 21 as mandated by Section 1905 of the Omnibus Budget Reconciliation Act of 1989. Concurrent care is medical services (mainly physician's visits) performed by more than one physician to a patient on the same day. Currently, reimbursement is limited to one physician in a group or one physician's hospital visit per day. Therefore, there is no expansion of procedures being covered by the program. The number of allowable visits on a given day is being revised. The Omnibus Budget Reconciliation Act of 1989, Section 1905, states that Title XIX eligible children under 21 years of age are to be provided all medical services mandated under the program with former discretionary limits unallowable. Therefore, the policies for concurrent visits (concurrent care) and consultations are being changed for these beneficiaries and incorporated into the programmatic policy. Costs were absorbed by the inflation factor included in our yearly budget. This program incorporates the following concurrent services: outpatient and inpatient concurrent care, outpatient and inpatient consultation and the same day outpatient visits.

PROPOSED RULE

Concurrent Care General Provisions

Concurrent care is defined as the provision of services by more than one physician to the same patient at the same time. Medicaid payment for concurrent care for beneficiaries to the age of 21 will be allowed provided such care is reasonable and necessary for the improved health status of the patient. In order to qualify for concurrent care, a beneficiary must suffer from a condition(s) or have a diagnosis(es) which requires the services of a physician(s) whose specialty, in the majority of cases, is different from that of the primary care physician. Additionally, the beneficiary's condition or ailment must be of such severity and/or complexity that the medical

community would consider the rendering of concurrent care to be reasonable and warranted. Also, the request by the primary care physician for the provision of concurrent care services must be upheld by peer review.

In all cases, concurrent care must be medically necessary, unduplicative and reasonable as established by statistical norms. It must be expected, also, that peer review must uphold the standard and type of care which are provided.

Medicaid of Louisiana has adopted for all Louisiana Medicaid beneficiaries the American Medical Association's latest definitions of new and established patient as contained in the publication of the *Physicians' Current Procedural Terminology* (CPT). The Bureau of Health Services Financing follows the Evaluation and Management definition of services and applicable procedure codes in accordance with the latest publication of the *Physicians' Current Procedural Terminology*. The limitations of this policy will be in accordance with existing Medicaid policies and procedures as stipulated in the *Professional Services Provider Manual*, *Provider Updates*, *Community Care Manual* and remittance advice to providers.

Concurrent care by more than one provider of the same specialty will pend for medical review prior to reimbursement. In these cases, a request for, and a review of, the medical documentation will occur before the decision to authorize payment is made. In all cases, the documentation in the patient's hospital/medical record must substantiate the need for services rendered.

All claims are subject to post-pay review.

Outpatient Concurrent Care

Outpatient concurrent care is to be reimbursed through the use of the "Office or Other Outpatient Services" procedure codes.

An emergency room visit and a hospital admit will be allowed on the same day but not by physicians who belong to the same group. An emergency room visit and critical care services will be allowed by the same physician on the same day.

Concurrent care of outpatients is not covered under any of the following circumstances.

1. A physician cannot be both a consultant and a concurrent care provider on the same case. If a consultant may become a concurrent care provider for a particular patient, he may bill for the initial consultation but not for additional consultations. If, after consultation, a physician assumes the role of surgeon on the case, neither follow-up care nor additional consultations will be reimbursed, as the surgical package policy supersedes this policy.

2. Concurrent care for simple outpatient surgical procedures and uncomplicated diagnoses is not covered under this policy.

3. Surgeons who have performed inpatient surgery on a patient will not be reimbursed for routine follow-up care as this care is included in the reimbursement for the surgery package.

4. An office visit and a hospital admit will not be reimbursable on the same day for the same beneficiary to the same provider or group.

Inpatient Concurrent Care

Medicaid payment for concurrent care of hospitalized beneficiaries will be allowed if such care is reasonable and necessary for the improved health status of the beneficiary. Providers will be reimbursed for inpatient concurrent care through the use of the "Hospital Inpatient Services" and the "Critical Care Services" procedure codes.

The beneficiary's hospital records must be available for review should review be necessary to substantiate the need for concurrent care. Concurrent care of beneficiaries in the intensive care areas of the hospital will be allowed. An emergency room visit and a hospital admit will be allowed on the same day but not by physicians who belong to the same group.

The critical care codes must be used to report the total duration of time spent by a physician providing constant attention to a critically ill beneficiary. Other procedures which are not directly attendant to critical care management are not included in critical care and should be reported separately. Concurrent care of hospitalized patients is not covered under any of the following circumstances.

1. The policy on surgical packages supersedes this policy. Surgeons may not bill for follow-up care after surgery since follow-up care is included in the surgical package.
2. A consultant may become a concurrent care provider but he must not bill for follow-up consultations if he becomes a concurrent care provider or follow-up care if he assumes the surgeon's role.
3. The provision of concurrent care for simple surgical procedures and uncomplicated diagnoses is not allowed.

Consultations

General Provisions

A consultation is generally considered to be a service performed by a physician of a different specialty from that of the primary care physician. However, consultations by a provider of the same specialty as that of the attending or primary care physician will be allowed when circumstances are of an emergent nature as supported by diagnosis and the primary care physician needs immediate confirmation of a beneficiary's condition. Additionally, the condition(s) and diagnosis(es) of the beneficiary must be of such severity and/or complexity that consultation is needed. All requests for consultation, including follow-up consultation should be made by or through the primary care provider. A consultant renders an opinion and/or gives advice regarding evaluation and/or management of a specific problem. A consultant may also initiate diagnostic or therapeutic services at the request of the primary care physician. No provider may bill for a consultation conducted by telephone.

Consultations should not be rendered unless they are medically necessary, unduplicative, needed for adequate diagnosis and or treatment and reasonable, as established by statistical norms. It must be expected, also, that the physician's request for the consultant's opinion would be upheld by peer review. Additionally, the condition(s) and diagnosis(es) of the beneficiary must be of such severity and/or complexity that consultation is necessary. The beneficiary's medical records must be available for analysis if review becomes necessary, and the documentation contained

therein must substantiate the need for said consultation.

The documentation must also substantiate:

1. the attending physician's request for the consultation; and
2. the consulting physician's recommendation of a course of action to the attending physician and his statement that he is initiating treatment at the request of the attending physician (this statement is to include his opinion and documentation of any services that were ordered or performed).

The following types of consultative services are not allowed under this policy:

1. consultations by a physician who treated the patient previously as either a primary care provider or a concurrent care provider;
2. consultations on a patient with a simple diagnosis(es) or on a patient who requires non-complex care; and
3. confirmatory consultations.

The limitations indicated above are not intended to be all inclusive. Additional limitations and other Physician Program parameters as contained in the *Professional Services Provider Manual, Provider Updates, Community Care Provider Manual* and remittance advice to providers are applicable to this policy.

Outpatient Consultations

The procedure codes listed under the heading "Office or Other Outpatient Consultations" in the latest *Physicians' Current Procedural Terminology* apply to this policy.

Inpatient Consultations

Inpatient consultations are to be reimbursed through the use of the "Initial Inpatient Consultations" and "Follow-up Inpatient Consultations" procedure codes.

Same Day Outpatient Visits

Two same-day outpatient visits per provider per specialty will be allowed. The medical necessity of the second same-day outpatient visit is considered to be justified when the primary care physician needs to evaluate the progress of an unstable beneficiary treated earlier in the day, when an emergency situation, such as an accident, necessitates a second visit on the same day as the first or when any other occasion arises in which a second visit within a 24-hour period is necessary to ensure the provision of medically necessary care to the beneficiary.

This policy is being implemented in conjunction with the outpatient concurrent care policy and addresses the care given by the physician to the beneficiary whom the doctor sees twice on the same day.

A second same-day outpatient visit is allowed if the provision of the second service has met the test of reasonableness as established by statistical norms of the provider's peer group. The beneficiary's medical records must be available for analysis should review be necessary, and the documentation contained therein must substantiate the need for the second same-day visit. All claims are subject to post-pay review. A same-day follow-up office visit for the purpose of fitting eyeglasses is allowable under the provisions of this policy. An outpatient visit and critical care services may be billed on the same day. An emergency room visit and critical care services are allowed on the same day.

Limitations

KIDMED medical screening or interperiodic medical screening code with a preventive medicine code are not reimbursable to the same physician on the same day. Second same-day outpatient visits are not covered in the following instances: 1) the beneficiary's diagnosis(es) is simple; 2) the beneficiary's condition requires non-complex care; and 3) routine same-day follow-up visits for stable patients.

Office, outpatient or hospital visits are not allowed the same day as a comprehensive nursing home assessment by the same attending provider. However, an office visit and a subsequent nursing facility visit are allowed on the same day by the same attending provider.

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

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

A public hearing on this proposed rule will be held in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m., Monday, March 29, 1993. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley
Secretary

Fiscal and Economic Impact Statement for Administrative Rules

Rule Title: Physicians Concurrent Care Program Medicaid of Louisiana

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

Implementation of this rule is projected to increase state expenditures by \$2,554,168 in SFY 1992-93, \$13,020,120 in SFY 1993-94, and \$13,827,367 in 1994-95.

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

Implementation of this rule is projected to increase federal revenue by \$1,893,660 in SFY 1992-93, \$9,576,298 in SFY 1993-94 and \$10,008,248 in SFY 1994-95.

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

There are no costs associated with this proposed rule

for Medicaid beneficiaries. It is anticipated that these persons will receive needed additional services from medical specialists. Physician specialists enrolled in Medicaid of LA who provide services to these beneficiaries will receive the above reimbursement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no known impact on competition or employment.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Specified Low-Income Medicare Beneficiaries

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

In accordance with Section 4501(b) of the Omnibus Reconciliation Act of 1990, state Medicaid programs are required to pay the Medicare Part B premiums of Specified Low-Income Medicare Beneficiaries (SLMBs). States were mandated to begin these payments effective January 1, 1993.

In order to comply with this federal mandate, an emergency rule was implemented on this matter effective January 1, 1993, and it was published in the January 20, 1993, issue of the *Louisiana Register*. This populations group is related to the qualified medicare beneficiary group, but specific federal regulations regarding countable resources and income govern their eligibility.

PROPOSED RULE

Medicaid of Louisiana shall pay the Medicare Part B premiums for the specified low-income Medicare beneficiaries in accordance with the Omnibus Reconciliation Act of 1990. Eligibility for this benefit include the following criteria. Prospective eligibles must be enrolled or conditionally enrolled in Part A of Medicare. In addition, their incomes must be between the allowed limit for the Qualified Medicare Beneficiaries population and the maximum limit specified for the Specified Low-Income Medicare Beneficiaries as required by federal regulations. The resource limit for this population must not exceed two times the Supplemental Security Income resource limit and they must meet all other non-financial eligibility requirements for Medicaid of Louisiana.

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

Interested persons may submit written comments to John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this proposed rule.

A public hearing is scheduled for 9:30 a.m., on Monday, March 29, 1993, in the Auditorium at DOTD, 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 the public hearing. Copies of this proposed rule and all other Medicaid regulations are available for review at parish Medicaid offices.

J. Christopher Pilley
Secretary

**Fiscal and Economic Impact Statement
for Administrative Rules
Rule Title: Specified Low-Income Medicare
Beneficiaries**

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

Implementation of this rule is projected to increase state expenditures by \$713,700 in SFY 1992-93; \$1,698,396 in SFY 1993-94; and \$2,344,738 in 1994-95.

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

Implementation of this rule is projected to increase federal revenue by \$713,700 in SFY 1992-93; \$1,698,396 in SFY 1993-94; and \$2,344,738 in SFY 1994-95.

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

State payments for Medicare Part B premiums for the special low-income medicare beneficiaries will total \$1,427,400 in 1992-93; \$3,396,793 in 1993-94, and \$4,689,476 in 1994-95 for a projected number of beneficiaries totaling 6,500, 7,581 and 8,842 for these years.

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

This proposed rule will have no known impact on competition or employment.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Targeted Case Management for Developmentally
Delayed Infants and Toddlers**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to amend the rule for the provision of case management services to developmentally disabled infants and toddlers. This rule was previously published in LR 18:849 (August 1992).

In order to comply with recent federal interpretations of policy for case management services, the bureau will now require a notarized letter of assurance from the provider that Medicaid requirements regarding recipient eligibility, provider staff qualifications and other requirements will be met. Therefore, the text of the original rule is being amended as noted below and this change will be incorporated in the provider manual.

PROPOSED RULE

* * *

II. Specific Provider Responsibilities

1. The provider must sign a notarized letter of assurance that the requirements of Louisiana Medicaid will be met.

* * *

Interested persons may submit written comments to John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held at 9:30 a.m., Monday, March 29, 1993 at DOTD Auditorium, First Floor, 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.

J. Christopher Pilley
Secretary

**Fiscal and Economic Impact statement
for Administrative Rules
Rule Title: Targeted Case Management for
Developmentally Delayed Infants and Toddlers**

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

Costs to implement this change will be minimal. costs will be for copying and mailing new forms to all current providers and inserting changes in the provider manual. Costs for this change are not anticipated to exceed \$150. For all providers enrolling in the future this will be included as part of the usual enrollment procedure.

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

No effect is anticipated.

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

No effect is anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect of this change is unknown.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Ventilator Assisted Children Care Management

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to amend the rule for the provision of case management services to ventilator assisted children. This rule was previously published in the LR 12:835 (December 1986).

In order to comply with recent federal interpretations of policy for case management services, the bureau will now require a notarized letter of assurance from the provider that Medicaid requirements regarding recipient eligibility, provider staff qualifications and other requirements will be met. Therefore, the text of the original rule is being amended as noted below and this change will be incorporated in the provider manual.

PROPOSED RULE

* * *

2. Standards for Participation

A - C. ...

D. sign a notarized letter of assurance that the requirements of Louisiana Medicaid will be met.

* * *

Interested persons may submit written comments to John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing is scheduled for 9:30 a.m., Monday, March 29, 1993, in the Auditorium at DOTD, 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.

J. Christopher Pilley
Secretary

Fiscal and Economic Impact statement
for Administrative Rules
Rule Title: Ventilator Assisted Children Care Management

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

Costs to implement this change will be minimal. Costs will be for copying and mailing new forms to all current providers and inserting changes in the provider manual. Costs for this change are not anticipated to exceed \$150. For all providers enrolling in the future, this will be included as part of the usual enrollment procedure.

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

No effect is anticipated.

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

No effect is anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect of this change is unknown.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections
Corrections Services

Adult Inmates Disciplinary Rules (LAC 22:I. Chapter 3)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to repeal in its entirety LAC 22:I. 341-439 and to promulgate new rules and regulations, all relative to the manual of Disciplinary Rules and Procedures for Adult Inmates.

Interested persons may submit written comments to: Richard L. Stalder, Secretary, Department of Public Safety and Corrections, Box 94304, Baton Rouge, LA 70804-9304. Comments will be accepted through the close of business, 4:30 p.m., March 15, 1993. Copies of the proposed rule may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA; telephone: (504) 342-5015 and from Corrections Services, 504 Mayflower Street, Baton Rouge, LA 70802.

Richard L. Stalder
Secretary

**Fiscal and Economic Impact Statement
for Administrative Rules
Rule Title: Disciplinary Rules and Procedures
for Adult Inmates**

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

There are no implementation costs or savings to state or local governmental units associated with this rule.

**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 associated with this rule.

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

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups associated with this rule.

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

This proposed rule will have no effect on competition and employment.

Richard L. Stalder
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Management and Finance**

Automated Copy Fees (LAC 55:XI.101 and 103)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Public Safety and Corrections intends to update its pricing policy beginning with fiscal year 1992-93 for contractual agreements to purchase computerized data from the motor vehicle, drivers license and alcoholic beverage control files. This notice also describes new policies affecting the purchase of in-house and adhoc reports.

Title 55

PUBLIC SAFETY

Part XI. Management and Finance

Chapter 1. Fees

§101. Initial and Contract Requests

All initial inquiries will be directed to the director of information services within the office of management and finance. Rates may be updated each fiscal year or as legislative statutes change. For one-time requests, a minimum deposit of 75 percent of the estimated cost is required before any work shall commence. For contractual agreements which require multiple updates over a period of time, the customer

must provide a bond, a certified check or other negotiable instrument made payable to the Department of Public Safety (such as a "CD") equivalent to three billing cycles of the estimated cost.

§103. Automated Copy Fees

A. Pricing policy for motor vehicle data extracted on a daily basis under contractual agreement which includes title, registration, renewal and other non-specific data is \$25 per thousand records.

B. The pricing policy for drivers license, motor vehicle and alcoholic beverage control master records utilizing standard utility programs available for one-time extracts is as follows:

1. State, parish and municipal governments requesting less than 25,000 records:

- a. 5,000 or less records \$100;
- b. 10,000 or less records \$200;
- c. 15,000 or less records \$300;
- d. 20,000 or less records \$400;
- e. 25,000 or less records \$500.

2. State, parish and municipal governments requesting greater than 25,000 records:

- a. basic processing fee \$500;
- b. first 50,000 records \$.01 each;
- c. next 100,000 records \$.005 each;
- d. next 850,000 records \$.0025 each;
- e. all additional records \$.00125 each.

3. All non-governmental bodies:

- a. basic processing fee \$500;
- b. first 50,000 records \$.03 each;
- c. next 100,000 records \$.02 each;
- d. next 850,000 records \$.01 each;
- e. all additional records \$.005 each.

4. Cost of supplies (paper, postage, etc.)--actual cost.

C. Pricing policy for online driver history data is \$6 per history record as per statute. Pricing policy for online master records (all types) is \$2 per transaction.

D. Pricing policy for contractual agreements which require multiple updates over a period of time is as follows:

- 1. cost of programmer/analyst work is \$50 per hour;
- 2. setup cost for data control and operations, as applicable is \$30 per hour;
- 3. flat rate charge of \$.03 per record;
- 4. cost of supplies.

E. Pricing policy for customized one time request is as follows:

- 1. cost of programmer/analyst work is \$50 per hour;
- 2. cost of data control and operations is \$30 per hour;
- 3. record pricing policy reflected in subsection A;
- 4. cost of supplies.

F. Pricing policy for online access or continually updated reports that does not currently exist will be developed and provided by written estimate upon a written request from a customer.

G. Pricing policy for continually updated in-house reports requested by non-governmental bodies is \$100 for the first report and \$25 for each additional report per update or per week. There is an additional \$.03 per record charge.

H. Pricing policy for continually updated in-house reports

requested by governmental bodies is \$100 for the first report and \$25 for each additional report per update or per request.

I. Pricing policy for copies of other preprinted in-house statistical reports is \$1 per page plus postage for current information. Copies of non-current reports (past years) are \$25 each.

J. Pricing policy for batch access of drivers license and motor vehicle records extracted specifically for address verification or similar purposes where specific input data is required is \$1000 per run plus \$.03 per record with a maximum of 15,000 records per run.

K. Copies of an individual's own public record requested by an indigent citizen of Louisiana shall be furnished free of charge. All other individual requests will be furnished as per state statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:853B(1), 32:727E, 32:393.1C.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 19:

Interested persons may submit their comments in writing to: Rexford L. McDonald, Department of Public Safety and Corrections, Box 66614, Baton Rouge, LA 70896. Comments must be received by close of business March 1, 1993.

Linda Dawkins
Undersecretary

**Fiscal and Economic Impact statement
for Administrative Rules
Rule Title: Automated Copy Fee**

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

There are no estimated implementation costs to state or local governmental units.

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

An increase of \$25,000 per year is expected from this action.

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

The estimated cost and/or economic benefits to directly affected persons or non-governmental groups is unknown.

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

The increased availability of marketing information should improve the competitive ability of the recipients of the data.

Linda M. Dawkins
Undersecretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

**Breath-Alcohol Ignition Interlock Device
(LAC 55:I.Chapter 6)**

The Department of Public Safety and Corrections, Public Safety Services, Office of State Police, proposes to implement Title 55, Chapter 6, §601-607 promulgating regulations covering the standards for departmental approval of breath-alcohol ignition interlock devices and the proper use and installation of such devices. These regulations were made necessary by the enactment of R.S. 32:378.2 and R.S. 15:306 and 15:307 by the legislature in the 1992 Regular Session.

TITLE 55

PUBLIC SAFETY

Part I. State Police

Chapter 6. Ignition Interlock Devices

§601. Introduction

A. General Background. In the 1992 Regular Session, the legislature addressed the use of ignition interlock devices on vehicles available to persons convicted of driving while intoxicated. In Act 352 of the 1992 session, the legislature found it to be economically and technically feasible to have an ignition interlock device installed on a vehicle in such a way as to keep the vehicle from being started if the operator's blood-alcohol content is measurable and exceeds a level set herein. In this Act, enacting R.S. 32:378.2 and Act 982, enacting R.S. 15:306 and 15:307, the legislature authorized the courts to impose the use of such devices as a condition of probation after conviction of driving while intoxicated.

B. Purpose. The purpose of these rules is to promulgate a set of standards for the proper use of ignition interlock devices (R.S. 32:378.2[J]), a set of rules and regulations for the proper approval, installation and use of such devices (R.S. 15:307[C]), adopt a warning label to be affixed to said devices warning of criminal and civil penalties for misuse of such devices (R.S. 32:378.2[L] and R.S. 15:307[E]) and otherwise to declare substantive and procedural matters related to the functions and duties of the Department of Public Safety and Corrections under the Act to which reference is made above, as well as under its general authority set forth in R.S. 40:1304.

C. Interpretation. These rules shall be interpreted so as to favor the safety of the public and the findings of the legislature that ignition interlock devices are designed to supplement other conditions of probation and punishment of those convicted of driving while intoxicated. Usual rules of statutory construction on gender, time and similar matters shall apply. References to statutory standards, regulations, governmental agencies, companies, organizations, officials and similar persons or things shall be read as referring to and including any amendments or successors thereto.

D. Conflicts. Rules or language apparently or actually in conflict shall be read in accordance with the interpretative favor required in Subsection C above with the view of maximizing the effectiveness of every provision. In the

absence of a rule specifically addressing a particular matter, there shall be applied reasonable, just and equitable procedures and substantive decisions which are predictable from the spirit and intent of the legislative enactments and these rules. The basis for such equitable procedures and substantive decisions shall be articulated in writing and given effect in a manner which protects the safety of the public while recognizing the lack of a prior specific regulatory provision.

AUTHORITY NOTE: Promulgated in accordance with 57 FR, No. 67, 49 FR 48854, R.S. 32:378.2, R.S. 15:306, R.S. 15:307.

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

§603. Definitions

Approved Ignition Interlock Device—an ignition interlock device, as defined in R.S. 32:378.2(M) and R.S. 15:307(A), which meets or exceeds the standards of the National Highway Traffic Safety Administration as published in Volume 57, No. 67 of the *Federal Register* for Breath-Alcohol Ignition Interlock Devices, as extant or subsequently amended, or for which any exemptions from specific provisions of same have been granted by the department and is certified by the manufacturer and accepted by the department.

Approved Manufacturer—a manufacturer in good standing with the department who has furnished the necessary background information, demonstrated the necessary capability and who has received written approval of the department to supply approved ignition interlock devices in Louisiana. A manufacturer shall not be regarded as an approved manufacturer if approval has been withdrawn as to any matters concerning the supply of ignition interlock devices.

Court—the judge who sentences a person convicted of driving while intoxicated, and as a condition of probation, imposes the use of an ignition interlock device. This also includes the clerical and professional staff of such judge.

Department—the Department of Public Safety and Corrections, together with any of its agents or employees acting pursuant to the duties imposed by the statutes or other laws, as well as law enforcement authority, and under these regulations.

Manufacturer's File On Driver—a folder of other approved filing system containing copies of all documents required to be furnished by a probationary driver to the manufacturer, together with copies of all inspection reports, maintenance records, records of driver failure to meet with checkup appointments and deadlines, any reports to the court and all other documents related to the manufacturer's contacts with a probationary driver.

Manufacturer's Proof of Installation—a standard form, approved by the department, prepared and executed by the manufacturer or his designated representative who installs an approved ignition interlock device in a vehicle to be used in accordance with the provisions of the statutes and these regulations and submitted to the court or a probation officer designated by the court, within 30 days of the installation of the ignition interlock device.

N.H.T.S.A.—the federal agency known as the National Highway Traffic Safety Administration or any successor agency.

Probationary Driver—a Louisiana motorist who has been

convicted of driving while intoxicated and given a probationary sentence which includes the requirement that he not operate a motor vehicle during his period of probation unless his vehicle is equipped with a functioning and approved ignition interlock device.

AUTHORITY NOTE: Promulgated in accordance with 57 FR, No. 67, 49 FR 48854, R.S. 32:378.2, R.S. 15:306, R.S. 15:307.

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

§605. Manufacturers

Each manufacturer seeking approval shall submit to the department the following documents and items of information:

1. a copy of the corporate charter, and if the manufacturer is a corporation chartered outside of Louisiana, a certificate from the Louisiana secretary of state authorizing the transacting of business in Louisiana;

2. a statement providing the names, titles, addresses and phone numbers of all officers of the corporation or personnel of the manufacturer who are charged with knowledge of the operations and business of the manufacturer in Louisiana, together with a job title and description for each such officer of personnel;

3. a copy of each policy of liability insurance in force covering product liability and operations of the manufacturer in Louisiana;

4. a copy of a letter of instruction to the insurance company issuing the policy of product liability coverage for the manufacturer instructing said company to notice the department for any lapse in coverage for said policy;

5. a security bond in the face amount of \$1 million with a solvent surety company carrying at least an "A" rating with the commissioner of insurance for the state of Louisiana providing financial protection to any person or entity harmed by the malfunction of any approved ignition interlock device of the manufacturer which is used in Louisiana. This security bond may be utilized in lieu of the providing of a policy of product liability insurance referred to in Paragraph 3 above;

6. Copies of all forms, documents, manuals or other written materials of the manufacturer utilized in the training of personnel or probationary drivers, in the administration of its maintenance and inspection programs or marketing of its product, along with any audio/visual aids so utilized. The manufacturer shall not utilize any such materials not provided to the department or approved by the department in administering its program and/or its product in Louisiana. Required documentation shall include the manual for training of the installers, manuals for the servicing and maintenance of the ignition interlock device and manuals or other aids provided to probationary drivers.

AUTHORITY NOTE: Promulgated in accordance with 57 FR, No. 67, 49 FR 48854, R.S. 32:378.2, R.S. 15:306, R.S. 15:307.

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

§607. Regulation of Manufacturers

A. Good faith compliance with statutory regulation is required as a condition of continued good standing and approval of a manufacturer and his devices and

operations. Neglect of good faith compliance, along with tardy, inaccurate or incomplete reports or record keeping, unavailability of key persons to receive communications from the department or failure to appear before the department for consultations, discussions or clarifications, may give rise to written administrative warnings. Although the intent of this procedure is to provide a less formal method of mutually exploring the respective positions of the department and the manufacturer, this procedure can be utilized in conjunction with more formal methods requiring minutes, etc.

B. Under the general authority of R.S. 15:307(C), the department may impose probationary conditions upon a manufacturer who fails to adhere to the requirements of law. Probations will be imposed in the following manner:

1. Written warning will be provided to a manufacturer at the address provided to the department regarding any neglect or non-compliance with the statutory regulations.

2. If after a reasonable delay the manufacturer fails to comply with the statutory regulations, the department may issue another warning to the manufacturer or impose written probationary conditions upon said manufacturer. The department may withdraw approval of a manufacturer for an indefinite period of time until at least the manufacturer corrects all statutory non-compliance. Any withdrawal of approval shall be in writing and shall state the reasons for said withdrawal and shall be mailed to the manufacturer at the address provided to the department by the manufacturer. The manufacturer shall then notify all installers of its equipment in Louisiana of the withdrawal of approval in writing. The withdrawal of approval may be only partial as to a particular part of the manufacturer's program in those situations where deficiencies of the manufacturer only affect limited activities, persons or situations and where there is no general neglect of all facets of the manufacturer's operation in Louisiana.

C. All written notices to the manufacturer by the department shall be by certified mail, return receipt requested. All such notices shall be sent to the permanent business address of the manufacturer provided to the department by the manufacturer. Ineffective delivery of such written notices shall be deemed the fault of the manufacturer provided that the item is properly addressed to the last-provided permanent business address of the manufacturer. In any event that notice is not actually made due to fault attributed to the manufacturer, notice will be presumed to have been properly given.

AUTHORITY NOTE: Promulgated in accordance with 57 FR, No. 67, 49 FR 48854, R.S. 32:378.2, R.S. 15:306, R.S. 15:307.

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

§609. Manufacturer's File On Driver

The manufacturer, or his designated representative in Louisiana, shall maintain in a file unique to each probationary driver legible copies of the following documents:

1. order of the sentencing court setting forth the terms and conditions of probation;
2. certificate of installation and acknowledgement by probationary driver;
3. ignition interlock monitoring reports;

4. if the probationary driver is utilizing a third-party owned vehicle, written permission from the owner of said vehicle to install the approved ignition interlock device;

5. any physical evidence of tampering or attempted tampering with the ignition interlock device discovered by the manufacturer or his designated representative.

AUTHORITY NOTE: Promulgated in accordance with 57 FR, No. 67, 49 FR 48854, R.S. 32:378.2, R.S. 15:306, R.S. 15:307.

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

§611. Driver's License and Proof of Insurance

Within seven days of the date the court imposed a probationary sentence upon a probationary driver, the probationary driver shall submit his current Louisiana driver's license to the department for the imprinting of the court's restriction on said license. The probationary driver shall also furnish to the department proof of liability insurance coverage pursuant to R.S. 32:871, et seq. The department shall charge the probationary driver the sum of \$5.50 as a handling fee for the above services.

AUTHORITY NOTE: Promulgated in accordance with 57 FR, No. 67, 49 FR 48854, R.S. 32:378.2, R.S. 15:306, R.S. 15:307.

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

§613. Ignition Interlock Standards

A. Any breath-alcohol ignition interlock device submitted to the department for approval as an approved ignition interlock device shall be accompanied by the certificate of an independent testing laboratory approved by the Applied Technology Division of the Office of State Police indicating that the device meets or exceeds the standards of the National Highway Traffic Safety Administration for such devices as published in Volume 57, No. 67 of the *Federal Register*, as currently extant or subsequently amended, or for which any exemptions from specific provisions of same have been granted by the department. A complete and certified copy of the testing protocol and the results thereof of the independent testing laboratory shall also accompany any breath-alcohol ignition interlock device submitted for approval.

B. In order to obtain approval of the department as an approved ignition interlock device, the manufacturer shall amply demonstrate that said unit meets or exceeds the above federal standards and fulfills the statutory requirements as to:

1. safe operation of the vehicle in which the unit is installed;
2. lack of interference with normal use of the vehicle;
3. protection against compromise or circumvention and preservation of evidence of such activity;
4. resistance to tampering;
5. ability to work reliably and accurately in an unsupervised environment;
6. ability to initiate a "restart" of the vehicle's ignition within one minute after the ignition has been turned off without requiring another breath-alcohol analysis;
7. measurement of a person's breath-alcohol concentration by delivery of a deep lung sample directly into the device;

8. disablement of the ignition system of the vehicle if the breath-alcohol concentration of the sample introduced into the device exceeds .03 grams of alcohol per 210 liters of breath;

9. disablement of the ignition system of the vehicle if the ignition interlock device has not been calibrated and serviced within a period of 67 days subsequent to its installation or last calibration or inspection, whichever is sooner;

10. recordation of each time the vehicle is started, the time of each start, how long the vehicle was operated and any instances of tampering or attempted tampering with the unit;

11. visibly indicate to the user and any qualified person:

a. the unit is on;

b. the unit has enabled the ignition system of the vehicle in which it is installed;

c. the unit is in need of service or calibration;

d. failure of the BAC threshold and the reading obtained by the unit on the breath sample introduced;

e. any other indication required by the department. The unit may augment visible signals or indications with audible ones.

f. In addition to the above standards, the department may require the unit submitted for approval to meet or exceed other requirements deemed necessary to insure the safety of the public or mandated by the above-specified Federal BAIID regulations.

C. The manufacturer shall also supply for each approved unit sent to Louisiana for installation a sufficient supply of warning labels, one of which shall be affixed to each unit at all times it is installed which shall not be less than 1/2 inch in height by three inches in length and carry the following language: "WARNING! ANY ACTUAL OR ATTEMPTED TAMPERING OR CIRCUMVENTION OF THIS DEVICE CAN SUBJECT YOU TO CRIMINAL AND CIVIL LIABILITY." The manufacturer shall also supply to all authorized installers of its approved ignition interlock devices a sufficient supply of self-adhesive labels, one of which shall be affixed to the rear of each vehicle in which an approved interlock device is installed at a level not lower than that of the license plate on each vehicle and visible in daylight at a range of not less than 50 feet, triangular in shape and measuring 3 1/2 inches on each side, white in color, with red letters indicating "I.I.D." The manufacturer shall submit to the department samples of all such required labels at the time of submission of the ignition interlock device for approval.

AUTHORITY NOTE: Promulgated in accordance with 57 FR, No. 67, 49 FR 48854, R.S. 32:378.2, R.S. 15:306, R.S. 15:307.

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

§615. Installation and Inspection

Pursuant to the requirements of R.S. 32:378.2(H) and R.S. 15:306(C), all approved ignition interlock devices installed shall be inspected and calibrated at least each 60 days, or at such other intervals required by the court. Each installation and inspection shall be at the cost of the probationary driver, which shall not exceed the sum of \$30 each. The manufacturer, or his designated representative installer, shall furnish to the sentencing court a copy of each inspection or calibration performed on each approved ignition interlock

device within 14 days of the monitoring.

AUTHORITY NOTE: Promulgated in accordance with 57 FR, No. 67, 49 FR 48854, R.S. 32:378.2, R.S. 15:306, R.S. 15:307.

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

§617. Notice of Probation Revocation

The sentencing court shall supply to the department notice of any revocation or modification of the probation of any probationary driver. Notice of same shall be sent to the Department of Public Safety and Corrections, Office of Motor Vehicles, Legal Compliance Section, Box 64886, Baton Rouge, LA 70896.

AUTHORITY NOTE: Promulgated in accordance with 57 FR, No. 67, 49 FR 48854, R.S. 32:378.2, R.S. 15:306, R.S. 15:307.

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

Interested parties may contact Lt. Doussan Rando, Director, Applied Technology Unit, at (504) 925-6128, holidays and weekends excluded, for more information. The Applied Technology Unit of the Office of State Police is open from 8:30 a.m. until 4:30 p.m. All interested persons may submit written comments relative to this rule through March 26, 1993, to the Applied Technology Unit, 7901 Independence Boulevard, Baton Rouge, LA 70806.

Lt. Doussan Rando
Director

Fiscal and Economic Impact statement for Administrative Rules

Rule Title: Breath-Alcohol Ignition Interlock Devices

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

There are no costs to the state to implement this rule as all costs of implementation are borne by the manufacturers of the devices and the probationary drivers.

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

The state will collect in excess of \$80,000 per year in service fees generated from imprinting restrictions on probationary drivers licenses.

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

The economic costs to affected persons or groups of maintaining BAIID units in their vehicles is more than offset by the economic benefits derived by these affected persons or groups through maintenance of their driving privileges. Further benefits are derived from a decrease in recidivism.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No large scale effect on competition or employment is

anticipated from the implementation of these regulations, though some increase in employment will result from the creation of the installation and monitoring facilities necessary to carry out these regulations.

Linda M. Dawkins
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Office of the Secretary**

Child Care Assistance Program (LAC 67:I.103)

The Department of Social Services, Office of the Secretary proposes to amend the following rule in the Child Care and Development Block Grant Program effective June 1, 1993.

Title 67

SOCIAL SERVICES

Part I. Office of the Secretary

Chapter 1. Child Care Assistance

§103. Child Care Providers

* * *

E. 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.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), LR 19:

Interested persons may submit written comments by March 24, 1993 to William Ludwig, Deputy Secretary, Department of Social Services, Box 3776, Baton Rouge, LA, 70821. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on March 24, 1993 in the Second Floor Auditorium, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks
Secretary

**Fiscal and Economic Impact statement
for Administrative Rules**

Rule Title: Child Care Assistance Program

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

This rule will result in costs to the Department of Social Services as follows:

FY	TOTAL	FEDERAL	STATE
92/93	\$366,571	\$366,571	-0-
93/94	\$366,571	\$366,571	-0-
94/95	\$366,571	\$366,571	-0-

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

Federal funding by the U.S. Department of Health and Human Services is estimated to be increased, as follows:

\$366,571 in FY 92/93

\$366,571 in FY 93/94

\$366,571 in FY 94/95

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

This action results in benefits to providers of child care services (both directors and staffs) who demonstrate an intention to attain appropriate training in Early Childhood Development, by granting them scholarships to help with the costs of their education.

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

Staff of child care centers will be able to improve their qualifications at a lesser cost to themselves. Directors of child care centers will be able to employ better-qualified staff and therefore offer higher-quality services to parents. Higher-quality services may increase the demand for services; however, there should be no effect on competition, since scholarships are accessible to anyone, to the extent of availability of funds.

William Ludwig
Deputy Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Plan Document Benefits—Room and Board

Notice is hereby given that the Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend language in the Plan Document of Benefits regarding room and board. The complete text of this proposed rule may be viewed in its entirety in the Emergency Rule Section of the December, 1992 issue of the *Louisiana Register*, page 1353.

Comments or objections will be accepted, in writing, by the executive director of the State Employees Group Benefits Program until 4:30 p.m., April 9, 1993, at the following address: James R. Plaisance, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

James R. Plaisance
Executive Director

**Fiscal and Economic Impact statement
for Administrative Rules
Rule Title: Definitions of Room and Board**

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

According to the program's actuary, the Martin E. Segal Company, this rule change will have no fiscal impact on the State Employees Group Benefits Program.

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

There will be no effect on revenue collections of state or local governmental units.

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

There will be no estimated costs and/or economic benefits to any individual or non-governmental group.

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

Competition and employment will not be effected.

James R. Plaisance
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Plan Document Revisions

The Board of Trustees of the State Employees Group Benefits Program, under the authority of R.S. 42:874 et seq., hereby gives notice of its intent, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., to adopt certain benefit modifications and risk rate classifications. Risk rate classifications and proposed changes to the Plan Document of Benefits to implement these benefit modifications are proposed to be effective July 1, 1993. These changes may be viewed in their entirety at the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802, or from State Employees Group Benefits, 5825 Florida Boulevard, Baton Rouge, LA 70806.

Interested persons are invited to attend a public hearing on the proposed amendments April 8, 1993, 9:30 a.m., State Police Training Academy Auditorium, 7901 Independence Boulevard, Baton Rouge, LA 70806.

All interested persons are invited to submit written comments on the proposed rule amendments no later than 4:30 p.m., April 8, 1993, to James R. Plaisance, Executive Director, Box 44036, Baton Rouge, LA 70804.

James R. Plaisance
Executive Director

**Fiscal and Economic Impact statement
for Administrative Rules
Rule Title: Benefit Change: Birth Control
Pills-Delete Exclusion**

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

Implementation of this rule change will result in increased benefit payments by the State Employees Group Benefits Program. According to the Program's consulting actuary, the Martin E. Segal Company, the projected cost for fiscal year 93/94 is \$1,114,000.

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

Revenue collections of state and local governmental units will not be effected by this rule change.

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

Implementation of this rule change will result in the plan members of the State Employees Group Benefits Program having the cost of birth control medication being considered for payment under the normal schedule of benefits.

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

Competition and employment will not be effected.

James R. Plaisance
Executive Director

David W. Hood
Senior Fiscal Analyst

**Fiscal and Economic Impact statement
for Administrative Rules
Rule Title: Benefit Change: Psychiatric and Substance
Abuse Provided in a Managed Care Setting**

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

Implementation of this rule change will result in reduced benefit payments by the State Employees Group Benefits Program. According to the program's consulting actuary, the Martin E. Segal Company, the projected cost savings for fiscal year 93/94 will be \$4,815,000 to \$5,350,000.

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

Revenue collections of state and local governmental units will not be effected by this rule change.

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

Implementation of this rule change will result in the

plan members of the State Employees Group Benefits Program being treated for psychiatric and substance abuse diagnoses in a totally managed care setting under a per capita payment system at existing benefit levels.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be effected.

James R. Plaisance
Executive Director

David W. Hood
Senior Fiscal Analyst

**Fiscal and Economic Impact statement
for Administrative Rules**

Rule Title: Benefit Change: Prescription Drugs

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

Implementation of this rule change will result in reduced benefit payments by the State Employees Group Benefits Program. According to the Program's consulting actuary, the Martin E. Segal Company, the projected cost savings for fiscal year 93/94 will be \$13,700,000.

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

Revenue collections of state and local governmental units will not be effected by this rule change.

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

Implementation of this rule change will result in the plan members of the State Employees Group Benefits Program paying: 1) a separate \$100 annual deductible for prescription drugs; 2) benefit payments based on the generic equivalent (when available); 3) maximum annual benefits limited to \$2500 per person except for drugs used for the treatment of cancer and organ transplants and; 4) benefits payments not subject to a stop-loss.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be effected.

James R. Plaisance
Executive Director

David W. Hood
Senior Fiscal Analyst

**Fiscal and Economic Impact statement
for Administrative Rules**

**Rule Title: Benefit Change: Point of Service
Payment Differential**

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

Implementation of this rule change will result in reduced benefit payments by the State Employees Group

Benefits Program. According to the Program's consulting actuary, the Martin E. Segal Company, the projected cost savings for fiscal year 93/94 will be \$3,300,000.

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

Revenue collections of state and local governmental units will not be effected by this rule change.

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

Implementation of this rule change will result in the plan members of the State Employees Group Benefits Program paying an out of pocket differential for receiving treatment at non-PPO providers when these services are available from a PPO provider in their area.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be effected.

James R. Plaisance
Executive Director

David W. Hood
Senior Fiscal Analyst

**Fiscal and Economic Impact statement
for Administrative Rules**

Rule Title: Optional Benefit: Medicare COB Rider

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

Implementation of this rule change will provide an optional benefit subject to a separate premium to be paid entirely by the plan member, full coordination of benefits with Medicare. This benefit should be self-sustaining and result in neither a loss nor a savings to the program.

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

Revenue collections of state and local governmental units will not be effected by this rule change.

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

Implementation of this rule change will provide as an optional benefit, subject to a separate premium to be paid entirely by the plan member, full coordination of benefits with Medicare.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be effected.

James R. Plaisance
Executive Director

David W. Hood
Senior Fiscal Analyst

**Fiscal and Economic Impact statement
for Administrative Rules**

**Rule Title: Benefit Change: Eliminate Supplemental
Emergency Accident Benefit Rider**

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

Implementation of this rule change will result in reduced benefit payments by the State Employees Group Benefits Program. According to the program's consulting actuary, the Martin E. Segal Company, the projected cost savings for fiscal year 93/94 will be \$558,000.

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

Revenue collections of state and local governmental units will not be effected by this rule change.

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

Implementation of this rule change will result in the plan members of the State Employees Group Benefits Program not having a \$500 supplemental emergency accident benefit rider. These charges will still be a covered benefit of the plan, but subject to an annual deductible and coinsurance provisions.

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

Competition and employment will not be effected.

James R. Plaisance
Executive Director

David W. Hood
Senior Fiscal Analyst

**Fiscal and Economic Impact statement
for Administrative Rules**

**Rule Title: Restructuring of Premium Rate
Classification by Risk Groups**

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

Implementation of this rule will result in a restructuring of the premium rated classifications by risk groups.

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

Revenue collections of state and local governmental units will not be effected by this change.

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

Implementation of this rule change will result in the plan members of the State Employees Group Benefits Program be charged a premium rate based on their risk group classification. The group insurance premiums paid by the participants in the various risk classifications may

change. This change may result in active and retiree plan members paying more or less premiums than under the current classification system.

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

Competition and employment will not be effected.

James R. Plaisance
Executive Director

David W. Hood
Senior Fiscal Analyst

**Fiscal and Economic Impact statement
for Administrative Rules**

**Rule Title: Benefit Change: Increase Emergency Room
Deductible to \$100 per visit.**

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

Implementation of this rule change will result in reduced benefit payments by the State Employee Group Benefits Program. According to the program's consulting actuary, the Martin E. Segal Company, the projected cost savings for fiscal year 93/94 will be \$1,395,000.

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

Revenue collections of state and local governmental units will not be effected by this rule change.

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

Implementation of this rule change will result in the plan members of the State Employees Group Benefits Program having to pay a \$100 deductible for each visit to an emergency room. The prior deductible for an emergency room visit was \$50. This deductible would be waived should the patient be admitted for inpatient treatment.

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

Competition and employment will not be effected.

James R. Plaisance
Executive Director

David W. Hood
Senior Fiscal Analyst

**Fiscal and Economic Impact statement
for Administrative Rules**

**Rule Title: Benefit Change: Midwife and Certified
Nurse Midwife Eligible for Benefits**

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

Implementation of this rule change will result in services provided by certified midwives and certified nurse midwives being an eligible benefit under the State Employees Group Benefits Program. According to the

program's actuary, the Martin E. Segal Company, the projected cost savings for fiscal year 93/94 will be \$231,500.

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

Revenue collections of state and local governmental units will not be effected by this rule change.

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

Implementation of this rule change will result in services performed by a certified midwife or a certified nurse midwife being an eligible expense of the State Employees Group Benefits Program. These services will be subject to an annual deductible and normal coinsurance provisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be effected.

James R. Plaisance
Executive Director

David W. Hood
Senior Fiscal Analyst

**Fiscal and Economic Impact statement
for Administrative Rules**

**Rule Title: Benefit Change: Maximum Fee Schedule for
Outpatient Surgical Facility Charges**

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

Implementation of this rule change will result in reduced benefit payments by the State Employees Group Benefits Program. According to the program's consulting actuary, the Martin E. Segal Company, the projected cost savings for fiscal year 93/94 will be \$6,600,000.

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

Revenue collections of state and local governmental units will not be effected by this rule change.

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

Implementation of this rule change will result in the plan members of the State Employees Group Benefits Program paying for any amounts in excess of an established fee schedule amount for outpatient surgical facility charges.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be effected.

James R. Plaisance
Executive Director

David W. Hood
Senior Fiscal Analyst

**Fiscal and Economic Impact statement
for Administrative Rules**

**Rule Title: Benefit Change: Increase Daily Inpatient
Deductible to \$50 Per Day**

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

Implementation of this rule change will result in reduced benefit payments by the State Employees Group Benefits Program. According to the program's consulting actuary, the Martin E. Segal Company, the projected cost savings for fiscal year 93/94 will be \$2,790,000.

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

Revenue collections of state and local governmental units will not be effected by this rule change.

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

Implementation of this rule change will result in the plan members of the State Employees Group Benefits Program being responsible for a \$50 per day inpatient deductible for a maximum of 5 days per admission. The prior inpatient deductible was \$25 per day.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be effected.

James R. Plaisance
Executive Director

David W. Hood
Senior Fiscal Analyst

**Fiscal and Economic Impact statement
for Administrative Rules**

**Rule Title: Benefit Change: Wellness Benefit-One
Physical Per Year**

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

Implementation of this rule change will result in increased benefit payments by the State Employees Group Benefits Program. According to the program's consulting actuary, the Martin E. Segal Company, the projected cost for fiscal year 93/94 will be \$950,000.

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

Revenue collections of state and local governmental units will not be effected by this rule change.

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

Implementation of this rule change will result in the plan members of the State Employees Group Benefits Program having a \$100 wellness benefit to provide for one physical per year per covered person over 16 years

old. This benefit would provide payment, without deductible, for the cost of a physical, routine x-ray and laboratory work.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be effected.

James R. Plaisance
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Caddo Lake Black Bass (LAC 76:VII.167)

The Louisiana Wildlife and Fisheries Commission hereby advertises its intent to adopt the following rule on black bass (*Micropterus spp.*) in Caddo Lake located in Caddo Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§167. Black Bass Regulations, Caddo Lake

Harvest regulations for black bass (*Micropterus spp.*) on Caddo Lake located in Caddo Parish, Louisiana are as follows:

- Size limit: 14 inch-17 inch slot
- Daily take: 10 fish of which no more than 4 fish may exceed 17 inches maximum total length.
- Possession limit: On Water - Same as daily take.
Off Water - Twice the daily take.

A 14-17 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325 (C), 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 19:

Interested persons may submit written comments of the proposed rule to Bennie Fontenot, Administrator, Inland Fish Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Wednesday, April 7, 1993.

Bert H. Jones
Chairman

Fiscal and Economic Impact Statement
for Administrative Rules

Rule Title: Caddo Lake Black Bass

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

The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using existing staff. Caddo Parish enforcement agents are presently employed to patrol Caddo Lake as part of their duties.

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

The proposed rule will have no effect on revenue collections of state and local governmental units.

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

The proposed rule will effect no changes in estimated costs and/or economic benefits to directly affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no immediate effect on competition and employment in this state.

Fredrick J. Prejean
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Toledo Bend Reciprocal Agreement (LAC 76:VII.110)

The Louisiana Wildlife and Fisheries Commission hereby advertises its intent to amend the joint Louisiana/Texas Toledo Bend and Caddo Lake Sportfishing Reciprocal Agreement.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§110. Toledo Bend Reciprocal Agreement

The daily creel limit, (daily take), for black bass (*Micropterus spp.*) is set at eight fish and the minimum total length is set at 14 inches in Toledo Bend Reservoir. The possession limit shall be the same as the daily take on water and twice the daily take off water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325(c), 326.3, 673.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:548 (August 1988), amended LR 17:278 (March 1991), LR 17:1123 (November 1991), LR 19:

Interested persons may submit written comments on the proposed rule to Bennie Fontenot, Administrator, Inland Fish Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Wednesday, April 7, 1993.

Bert H. Jones
Chairman

**Fiscal and Economic Impact Statment
for Administrative Rules
Rule Title: Toledo Bend Daily Take Limits
for Black Bass**

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

The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using existing staff. Caddo, DeSoto, Sabine and Vernon Parish enforcement agents are presently employed to patrol the Sabine River, Toledo Bend Reservoir and Caddo Lake as part of their duties.

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

The proposed rule will have no effect on revenue collections of state and local governmental units.

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

The proposed rule will effect no changes in estimated costs and/or economic benefits to directly affected persons as related to present.

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

The proposed rule will have no immediate effect on competition and employment in this state.

Fredrick J. Prejean, Sr.
Undersecretary

David W. Hood
Senior Fiscal Analyst

COMMITTEE REPORTS

COMMITTEE REPORT

House Natural Resources Subcommittee Oversight Review

February 2, 1993

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Subcommittee on Oversight met on February 2, 1993 and reviewed certain proposed rules by the Department of Environmental Quality regarding requirements for solid waste landfills.

There was testimony both for and against the proposed rules. The department supported approval of the proposed rule. Opposition was presented by local governments, the agricultural community, the industrial sector, the oil and gas industry, and the environmental community. Some of the concerns expressed by the opponents and members of the committee were that the proposed rules did not adequately protect drinking water aquifers nor adequately address buffer zones, siting, liner requirements, quantity and types of solid waste, floodplains, recycling, and pulp and paper waste. Pursuant to this testimony, the committee voted 10 - 0 to disapprove the proposed regulations. Voting yea were Representatives DeWitt, Holden, John, Odinet, Patti, Roach, Siracusa, Jack Smith, Triche, and Sam Theriot.

In accordance with R.S. 49:968, copies of this report are being forwarded this date to the governor, the Department of Environmental Quality, the Louisiana Senate, and the State Register.

Sam Theriot
Chairman

GOVERNOR'S RESPONSE TO COMMITTEE REPORT

February 5, 1993

Dear Senator Sevario and Representative Theriot:

I am this day disapproving the action of the House Natural Resources Committee on February 2, 1993 wherein the House Natural Resources Committee voted to find unacceptable the Solid Waste Rules and Regulations proposed by the Louisiana Department of Environmental Quality (LAC 33:VII.Subpart 1). Originally these rules were noticed on March 20, 1991 and noticed again on September 20, 1992 in the *Louisiana Register*. This Rule will bring Louisiana into compliance with the federal Subtitle D Solid Waste Regulations and update and amend existing state regulations.

I am taking this action for the following reasons:

1. These regulations are essential in beginning the development and implementation of the state-wide solid waste management plan.

2. Existing Rules and Regulations are outdated and need to conform to state-of-the-art technology in the area of liner requirements, groundwater protection, siting, and operation and closure activities.

3. The federal Subtitle D Criteria allow authorized states flexibility in administering solid waste activities. If these regulations do not become effective, Louisiana will lose that flexibility.

4. I have been contacted by the Environmental Protection Agency, the Commissioner of Agriculture, the Chancellor of the LSU Agricultural Center, solid waste industry officials and other groups concerned that maximum environmental protection in the solid waste area will be best served by the implementation of these regulations.

For these reasons, the rule should be adopted as proposed.

Edwin Edwards
Governor

POTPOURRI

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Examination

The next Landscape Architect Registration Examination will be given at the College of Design Building on the LSU Campus, located near the intersection of Fieldhouse Drive and South Campus Drive, Baton Rouge, LA. The deadline for getting in application and fee is March 1, 1993. All applications and fees must be in the Horticulture Commission office no later than 4:30 p.m. on the deadline date. The test dates will be June 14, 15, and 16, 1993.

Further information concerning examinations may be obtained from Craig M. Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone 504-925-7772.

Bob Odom
Commissioner

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examinations

The next Retail Floristry Examinations will be given at 9:30 a.m. daily at the 4-H Mini Farm Building, LSU Campus, Baton Rouge, LA. The exam will be given in Baton Rouge permanently. The deadline for getting in application and fee is March 29, 1993. All applications and fees must be in the Horticulture Commission office no later than 4:30 p.m. on the deadline date. The test dates will be April 26 - 30, 1993.

Further information concerning examinations may be obtained from Craig M. Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone 504-925-7772.

Bob Odom
Commissioner

POTPOURRI

Department of Health and Hospitals Board of Board Certified Social Work Examiners

Meeting Dates

In accordance with R.S. 42:7 the following are the future meeting dates of the Board of Board Certified Social Work Examiners.

February 5, 1993:	9 a.m., New Orleans Airport Hilton Hotel, New Orleans, LA
March 26, 1993:	9 a.m., Monteleone Hotel, New Orleans, LA
June 17, 1993:	2 p.m., Sheraton Pierremont Hotel, Shreveport, LA

More detailed information concerning the exact location and the board's agenda can be obtained from the board's office at 504-673-3010 or by writing the Louisiana BCSW Board, Box 345, Prairieville, LA 70769.

Suzanne L. Pevey
Administrator

POTPOURRI

**Department of Health and Hospitals
Board of Embalmers and Funeral Directors**

Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, March 6, 1993 at Delgado Community College, 615 City Park Avenue, New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, phone 504-838-5109.

Dawn Scardino
Executive Director

POTPOURRI

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

Narcotics and Controlled Substances

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is exempting specific anabolic steroid products from the regulatory provisions required of Schedule III substances under the Controlled Substances Act 21 U.S.C. 801 et seq.

In accordance with the regulations and licensing authority contained in the Louisiana Revised Statutes, Title 40, Sections 961-1036, and Title 46, Section 51, the Louisiana Administrative Code 48:I; the Bureau of Health Services Financing adopted Chapter 39, Controlled Dangerous Substances through final rule on October 20, 1992. Under Chapter 39, §3939, the bureau exempts combination drugs in accordance with the current Code of Federal Regulations, Title 21, Section 1308.32. Under the Anabolic Steroids Control Act of 1990 (Title XIX of P. L. 101-847) and Title 21 Code of Federal Regulations 1308.32, the U. S. Drug Enforcement Agency has published a table of exempt anabolic steroid products in the *Federal Register* in the Tuesday, November 24, 1992, issue on page 55091. Therefore, the Bureau of Health Services Financing is also exempting these anabolic steroid products from the regulatory provisions associated with Schedule III substances. These steroid products include: Androgyn L.A., Ando-Estro 90-4, depAndrogyn, DEPO-T.E., DepTESTROGEN, Duomone, Duratestrin, DUO-SPAN II, Estratest, Estratest HS, PAN ESTRA TEST, Premarin with Methyltestosterone, TEST-ESTRO Cypionates, Testosterone CYP 50 Estradiol CYP 2, Testosterone Cypionate- Estradiol Cypionate Injection, Testosterone Enanthate-Estradiol Valerate Injection.

J. Christopher Pilley
Secretary

POTPOURRI

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

Utilization Review

The Department of Health and Hospitals hereby advises that Act 991 of 1991 assigned oversight of rules promulgated to implement the practice of utilization review to the Joint Health and Welfare Committee. Act 337 of 1992 delegated oversight to the House Committee on Insurance.

J. Christopher Pilley
Secretary

POTPOURRI

**Department of Social Services
Office of Community Services**

Emergency Shelter Grants Program (ESGP)

The Louisiana Department of Social Services (DSS) announces the availability of \$503,000 in grant funds for distribution to applicant units of local government under the 1993 State Emergency Shelter Grants Program (ESGP). Program funds are allocated to the state by the U.S. Department of Housing and Urban Development (HUD) through authorization by the Stewart B. McKinney Homeless Assistance Act, as amended, and by the Cranston-Gonzales National Affordable Housing Act. Funding available under the Emergency Shelter Grants Program is dedicated for the rehabilitation, renovation or conversion of buildings for use as emergency shelters for the homeless, and for payment of certain operating costs and social services expenses in connection with emergency shelter for the homeless. The program also allows use of funding in homeless prevention activities as an adjunct to other eligible activities. As specified under current state ESGP policies, eligible applicants are limited to units of general local government (parishes and cities) for jurisdictions with a minimum 28,000 population according to recent census figures. Recipient units of local government may make all or part of grant amounts available to private nonprofit organizations for use in eligible activities. To be eligible for funding participation, a private nonprofit organization as defined by ESGP regulations must be one which is exempt from taxation under subtitle A of the Internal Revenue Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance.

Application packages for the State ESG Program shall be issued by mail to the chief elected official of those qualifying units of general local government for jurisdictions containing

the required 28,000 minimum population. In order to be considered for funding, applications must be received by DSS/Office of Community Services by the close of business, 4:30 p.m., Friday, April 30, 1993.

The State DSS will continue use of a geographic allocation formula (initially implemented for the 1992 State ESG Program) in the distribution of the State's ESG funding to ensure that each region of the state is allotted a specified minimum of State ESG grant assistance for eligible ESGP projects. Regional allocations for the state's 1993 ESG Program have been formulated based on factors for low income populations in the parishes of each region according to recent U.S. Census Bureau data. Within each region, grant distribution shall be conducted through a competitive grant award process. The following table lists the allocation factors and amounts for each region:

	Factor	Allocation
New Orleans	.1572303	\$ 79,087
Other Reg. I Parishes	.1011911	<u>50,899</u>
Region I total	.2584214	129,986
Region II	.1664908	83,745
Region III	.0698830	35,151
Region IV	.1522066	76,560
Region V	.0531705	26,745
Region VI	.0764176	38,438
Region VII	.1344382	67,622
Region VIII	.0889719	44,753

Regional funding amounts for which applications are not received shall be subject to statewide competitive award to applicants from other regions and/or shall be reallocated among other regions in accordance with formulations consistent with the above factors. Should an eligible local government wish to apply for supplemental funds above the applicable maximum amount specified below, a separate second stage proposal may be submitted for consideration of award of funds remaining from grant distribution to other regions. Grant awards shall be for a minimum of \$15,000. Applicable grant maximums for first stage applications are as follows:

Individual grant awards to applicant jurisdictions of less than 49,000 population shall not exceed \$35,000.

For a jurisdiction of over 49,000 population, the maximum grant award shall not exceed the ESGP allocation for that jurisdiction's respective region.

A jurisdiction applying for grant funding through primary and second stage applications may receive up to the following maximum award:

- An applicant jurisdiction of less than 49,000 population may be awarded total grant amounts not to exceed \$60,000.
- An applicant jurisdiction of over 49,000 population may be awarded total grant amounts not to exceed \$110,000.

— The jurisdiction with the largest homeless population may be awarded grant funding up to \$150,000.

Grant specifications, minimum and maximum awards may be revised at DSS's discretion in consideration of individual applicant's needs, total program funding requests, and available funding. DSS reserves the right to negotiate the final grant amounts, component projects, and local match with all applicants to ensure judicious use of program funds.

Program applications must meet State ESGP requirements and must demonstrate the means to assure compliance if the proposal is selected for funding. If, in the determination of DSS, an application fails to meet program purposes and standards, even if such application is the only eligible proposal submitted from a region or subregion, such application may be rejected *in toto*, or the proposed project(s) may be subject to alterations as deemed necessary by DSS to meet appropriate program standards.

The following are the priorities and objectives for ESG Program funding as set forth in the State Comprehensive Housing Affordability Strategy (CHAS).

Priority: To increase the availability of longer term shelter and supportive services for homeless families with children to afford stable, decent and secure living environments and facilitation of movement to transitional or permanent housing arrangements.

Objective: To provide assistance for projects to expand capacity to serve 25 homeless families with longer term shelter and supportive services.

Priority: Increase in capacity of shelter programs with strong supportive service components or programs linking and coordinating shelter with available service resources to aid homeless persons.

Objective: To provide assistance for projects which include substance abuse recovery components, and/or case managed supportive services for special needs populations, to increase availability of such service enriched shelter by 50 persons.

Award of grant amounts between competing applicants will be based upon the following selection criteria:

- Nature and extent of unmet need for emergency shelter in the applicant's jurisdiction 40 points
- The extent to which proposed activities will address needs for shelter and assistance 30 points
- The ability of the applicant to carry out the proposed activities promptly 15 points
- Coordination of the proposed project(s) with available community resources, so as to be able to match the needs of homeless persons with appropriate supportive services and assistance 15 points

Successful applicants shall be required to provide matching funds in an amount at least equal to its ESGP grant amount except for those grant amounts awarded from the first \$100,000 of the state's allocation. With respect to this first \$100,000 which under statutory provisions is free from matching funds requirements, DSS will pass on this benefit to the recipient local government(s), and/or subrecipient(s), which shall be determined by DSS to have the least capability to provide the required matching funds based on information submitted in grant applications or obtained from subsequent

program evaluations. For those grant amounts which remain subject to matching funds requirements, the value of donated materials and buildings, voluntary activities and other in-kind contributions may be included with "hard cash" amounts in the calculation of matching funds. A local government grantee may comply with this requirement by providing the matching funds itself, or through provision by nonprofit recipients.

A recipient local government may at its option elect to use up to 2.545 percent of grant funding for costs directly related to administering grant assistance, or may allocate all grant amounts for eligible program activities. Program rules do not allow the use of ESGP funds for administrative costs of nonprofit subgrantees.

Under a recent federal statutory amendment, ESGP recipients are required to involve, to the maximum extent practicable, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under the ESG Program, and in providing services for occupants of these facilities. Another program amendment permits use of funds to pay staff costs for operations (heretofore an ineligible

activity). Beginning with fiscal year 1993 program funding, up to 10 percent of ESG amounts may be spent on staff costs of operations related to emergency shelter. Such eligible use of funds would include, for example, staffing costs to extend a shelter's hours to allow guests with evening or night jobs to be provided sleeping accommodations during the daytime period.

Availability of ESGP funding is subject to HUD's approval of the state's ESGP application for fiscal year 1993. No expenditure authority or funding obligations shall be implied based on the information in this notice of funds availability.

Inquiries and comments regarding the 1993 Louisiana Emergency Shelter Grants Program may be submitted in writing to the Office of Community Services, Division of Community Services Grants Management, Box 3318, Baton Rouge, LA 70821, or telephone (504) 342-2277.

Gloria Bryant-Banks
Secretary

**CUMULATIVE INDEX
(Volume 19, Number 2)**

1993	
Pages	Issue
4 — 112	January
113 — 262	February

AGRICULTURE AND FORESTRY

Agricultural and Environmental Sciences, Office of

Pesticide waste/pesticide case sales, 216N

Forestry, Office of

Stumpage Values, 4ER

Seedling prices, 118ER, 218N

Horticulture Commission

Examination, 256P, 256P

CIVIL SERVICE

Civil Service Commission

Sick leave charge, 219N

ECONOMIC DEVELOPMENT

Commerce and Industry, Office of

Research/development parks, 59N, 62N

Financial Institutions, Office of

Annuities, 219N

Credit union, 65N

Lending limit exceptions, 37R

Real estate exchange, 34R

Real estate financing, 35R

Self-help repossession, 221N

Racing Commission

Corrupt and prohibited practices, 118ER

Designated race, 222N

Foreign substances, 4ER, 67N

Penalty guidelines, 5ER, 68N

Permitted medication, 5ER, 69N, 119ER

Two-year-olds, 4ER, 5ER, 68N, 69N

Real Estate Commission

Branch Office Supervision, 171R

ECONOMIC DEVELOPMENT AND GAMING CORPORATION

Louisiana Economic Development and Gaming Corporation

Corporation formation/powers, 143ER

EDUCATION

Elementary and Secondary Education, Board of

8(g) Policy Manual, 172R

Complaint Management, 172R

Employee Grievances, 120ER

Exceptional Children's Act, 172R

Louisiana Components of Effective Teaching (LCET),
173R

Minimum standards waivers, 6ER, 173R

Model Career Options Program Guide (MCOP), 120ER

Parish Superintendents' Advisory Council, 120ER

Personnel evaluation, 171R

Pupil appraisal handbook, 171R

School transportation, 171R

Teacher certification, 70N, 71N

Vo-tech

Post-secondary curriculum, 70N

Proprietary School Commission

Licensure renewal, 173R

Student Protection Fund, 174R

Student Financial Assistance, Office of

Employment Opportunity Loan Program (LEO), 175R

Tuition assistance billing, 38R

ELECTIONS AND REGISTRATION

Voting equipment, 176R

Voting machine storage/drayage, 175R

ENVIRONMENTAL QUALITY

Air Quality and Radiation Protection, Office of

Benzene emission (AQ35), 39R

Emission standards (AQ60), 184R

Municipal waste combustors (AQ63), 222N

NORM (NE06), 223N

Permit procedures (AQ66), 176R

Polychlorinated dibenzo-p-dioxins/dibenzofurans
(AQ56), 186R

Toxic air pollutants (AQ62), 45R

Vapor recovery systems (AQ61), 45R

Secretary, Office of

Permit processing (OS12), 72N

Solid and Hazardous Waste, Office of

Land Ban Petition (HW37), 186R

Solid Waste (SW05), 187R, 255CR, 255CR

FIREFIGHTERS' PENSION AND RELIEF FUND

City of New Orleans and Vicinity

Board of Trustees

Direct rollovers, 226N

Forfeited service credit, 227N

GOVERNOR'S OFFICE

Division of Administration

Community Development, Office of

LCDBG Program, 188R

State Land Office

Repeal/repromulgation, 73N

Elderly Affairs, Office of

Assistance program, 107P

Long-term care, 228N

CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Potpourri

PPM—Policy and Procedure Memorandum

EO—Executive Order

FA—Fee Action

N—Notice of Intent

PFA—Proposed Fee Action

R—Rule

HEALTH AND HOSPITALS

Board Certified Social Work Examiners, Board of

Meeting Dates, 225P

Dentistry, Board of

Dental assistant, 205R

Dental hygienist, 206R

Fees/costs, 207R

Hepatitis B virus/HIV, 207R

Embalmers and Funeral Directors, Board of

Examinations, 257P

Management and Finance, Office of

Providers fees, 136ER

Medical Examiners, Board of

Respiratory therapy, 80N

Physical Therapy Examiners, Board of

Physical therapist assistant, 208R

Psychologists, Board of Examiners of

Continuing education, 46R

Public Health, Office of

Sanitary Code

Consumer oyster alert, 230N

HIV, 211R

Mechanical wastewater, 49R

Tanning facility, 209R

Secretary, Office of

Americans with Disabilities Act, 107P

LHCA service agreement, 6ER, 48R

Case management, 108P

Chronically mentally ill patients, 6ER, 233N

Community Care Program, 137ER, 234N

Concurrent Care, 239N

Developmentally disabled infants/toddlers, 7ER

Disproportionate share, 7ER

Durable medical equipment, 85N

EPSDT Program 138ER

Facility need review

ICF/MR approved beds, 139ER

Inpatient psychiatric beds, 86N

Utilization report, 8ER

High-risk pregnancy, 9ER, 235N

HIV, 18ER, 234N

Hospital services reimbursement, 9ER

ICF/MR facility residents, 12ER, 236N

Infant, toddler, 242N

Inpatient psychiatric beds, 13ER

KIDMED, 13ER

Long-term care, 14ER

Low-income beneficiaries, 21ER, 241N

Medicaid enrollment centers, 20ER, 232N

Mental health rehabilitation, 14ER

Mentally retarded/developmentally disabled, 16ER, 236N

Narcotics/controlled substances, 257P

Neurological rehabilitation, 28ER, 139ER

Non-emergency transportation, 17ER, 142ER, 237N

Nurse anesthetist, 108P

Per diem rate, 19ER

Psychiatric hospital

Reimbursement cap, 19ER

Third-party liability, 108P

Utilization review, 257P

Ventilator assisted care, 22ER, 243N

Substance Abuse Counselors, Board of Certification of

Revised rules, 120ER, 229N

Veterinary Medicine, Board of

Board members, 107P

Examinations, 107P

Preceptorship, 208R

Public hearings/meetings, 85N

Temporary permits, 48R

INSURANCE

Commissioner of Insurance

Holding company (Reg 31), 87N

JUSTICE

Open Housing Act, 142ER

LABOR

Office of Workers' Compensation

Medical reimbursement schedules, 212R

Workers' Compensation Secondary Board

Medical reimbursement schedules, 53R, 212R

LOUISIANA ADMINISTRATIVE CODE UPDATE

Administrative Code Update

Cumulative, January 1992 - December 1992, 105

NATURAL RESOURCES

Conservation, Office of

Statewide Order 29-F, 88N

Secretary, Office of

Fee assessment, 92N

Fishermen's Gear

Claims, 108P, 109P, 109P

PUBLIC SAFETY AND CORRECTIONS

Corrections Services

Adult inmates, 22ER, 243N

Management and Finance

Copy fees, 244N

Secretary, Office of

Compulsory liability, 153ER

State Police, Office of

Breath/alcohol ignition device, 245N

Riverboat gaming, 154ER

Towing, recovery, storage, 93N

CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Potpourri

PPM—Policy and Procedure Memorandum

EO—Executive Order

FA—Fee cction

N—Notice of Intent

PFA—Proposed Fee Action

R—Rule

REVENUE AND TAXATION

Tax Commission

Ad valorem, 212R
Stumpage values, 4ER

SOCIAL SERVICES

Community Services, Office of

Child protection, 94N, 165ER
Emergency Shelter, 257P
Weatherization assistance, 110P

Family Support, Office of

Food stamps, 213R
Individual/family grant, 167ER, 213R
JOBS

Training program, 96N

Rehabilitation Services, Office of

Supported employment, 214R
Supported living, 214R

Secretary, Office of

Childcare, 249N

STATE

Secretary, Office of

Executive branch lobbying, 32ER, 167ER

TRANSPORTATION AND DEVELOPMENT

Compliance Programs, Office of

Minority participation, 99N

**Professional Engineers and Land Surveyors,
Board of Registration for**

Bylaws, 54R
Certification, registration, permits, 56R

Real Estate, Office of

Relocation/acquisition, 100N

TREASURY

Bond Commission

Expedited lease review, 103N

Housing Finance Agency

Emergency Home Investment Partnership, 169ER

**State Employees Group Benefits Program,
Board of Trustees of the**

Plan document, 215R, 249N, 250N

**State Employees' Retirement System, Board
of Trustees of the**

Disability application, 100N
Trustee election, 101N, 102N

WILDLIFE AND FISHERIES

Wildlife and Fisheries Commission

Alligator, 33ER, 215R
Bait dealers, 215R
Black Bass, 34ER, 254N
Menhaden, 58R
Oyster, 170ER
Red Snapper, 34ER, 170ER
Toledo Bend, 254N

CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Potpourri

PPM—Policy and Procedure Memorandum

EO—Executive Order

FA—Fee Action

N—Notice of Intent

PFA—Proposed Fee Action

R—Rule

