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EXECUTIVE ORDERS

EXECUTIVE ORDER EWE 94-34

WHEREAS: during the last decade, the fabric of Louisiana's work force and work environment has changed dramatically, and

WHEREAS: in order to meet the challenges posed by our rapidly changing labor market, we must continue our commitment to improve employment and training opportunities, education and skills; to reorganize the workplace for quality, high productivity and customer involvement; and to provide the services that will generate new opportunities for dislocated workers, untrained individuals, and the disadvantaged; and

WHEREAS: we recognize the need to organize the delivery of employment and training services around the needs of our customers in the most efficient and effective way by keeping the number of entrance interviews and skills assessments to a minimum and providing these customers seeking employment and training opportunities to have ready access to good information about all programs and services available no matter where they enter the system; and

WHEREAS: it is clear that our employment/job training and education system must give job seekers, students and employers greater access to such services as job vacancy listings, career information and training opportunities while budgets and overall staffing levels have been reduced; and

WHEREAS: the ability of our citizens to compete in the global economy increasingly depends on a well-trained, educated, flexible and quality work force and those skills that workers need have changed significantly in recent years while funding for employment and training programs have decreased, the need to coordinate better and consolidate our work force development efforts has intensified; and

WHEREAS: we recognize that in order to provide the necessary services we must integrate technological advances and strengthen public/private partnerships — including business, labor, education and government — that will enhance the ability of local governments and community-based organizations to develop a work force meeting the evolving needs of both business and job seekers; and

WHEREAS: independent programs already exist to address specific needs of both business and job seekers and these programs have real and positive effects on the lives of their clients; yet because they are not integrated as a single, coherent process for preparing people for better work, they are not as effective as they could be; and

WHEREAS: our efforts in the area of work force preparation will require an unprecedented level of cooperation and coordination among agencies and service providers across the state and we must immediately take steps to coordinate these separate employment and training services and related programs;

NOW, THEREFORE, I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, do hereby establish a Human Investment Subcabinet which shall be advisory in nature, chaired by the lieutenant governor, co-chaired by the Department of Labor, Office of the Secretary, and do hereby order and direct as follows:

SECTION 1: The Human Investment Subcabinet shall consist of the governor's office, lieutenant governor's office, and the secretaries of the Departments of Labor, Economic Development, Education, Health and Hospitals, Social Services, and Corrections. The inclusion of other departments shall be added as deemed appropriate by the above identified subcabinet membership.

SECTION 2: The day-to-day advisory activities of collaboration and coordination of the Human Investment Subcabinet shall be staffed under the direction of the secretary of labor.

SECTION 3: The Human Investment Subcabinet will develop a number of initiatives that will define our vision of a diverse, highly skilled and highly competitive work force in the state of Louisiana. These initiatives will enable us to tie together job training services provided by both the state and local organizations into a real system.

SECTION 4: The Human Investment Subcabinet will cooperate with business and labor, community, professional, civic, and religious organizations, federal agencies, and agencies from other states in the development of public information programs, leadership, and activities in the interest of the delivery of employment related services/information to the public.

SECTION 5: The Human Investment Subcabinet will make studies appropriate to effectuate the purposes and policies of this executive order and make the results thereof available to the public.

SECTION 6: The Human Investment Subcabinet will render, at least annually, a comprehensive written report to the governor. The report may contain recommendations of the subcabinet for legislative and other action to effectuate the purposes and policies of this executive order or applicable law.

SECTION 7: The Human Investment Subcabinet will foster, through effective collaboration and community effort or otherwise, goodwill among the groups and elements of the population of the state.

SECTION 8: The Human Investment Subcabinet, in its advisory capacity, will perform other duties and functions as requested by the governor.

SECTION 9: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Human Investment Subcabinet in implementing the provisions of this executive order.

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state

of Louisiana, at the Capitol, in the City of Baton Rouge, on this 20th day of September, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9410#006

EXECUTIVE ORDER EWE 94-35

WHEREAS: the United States Department of Housing and Urban Development ("HUD") has announced its intention to consolidate the planning, application and reporting requirements for key formula programs, including the Community Development Block Grant Program ("CDBG Program"), the Emergency Shelter Grant ("ESG Program"), the HOME Investment Partnership Program ("HOME Program"), and the Housing Opportunities for People with Aids Program ("HOPWA Program"); and

WHEREAS: HUD promulgated in the *Federal Register* dated August 5, 1994 (24 CFR Parts 91, et al) requiring the consolidation into a single consolidated submission the planning, application and reporting aspects, into a Single Housing and Community Development Strategy; and

WHEREAS: the state of Louisiana ("state") currently administers federal formula programs subject to HUD's Consolidated Planning Process (hereinafter collectively referred to as the "Consolidated Planning Programs"), namely, the CDBG Program by the Division of Administration; the HOME Program by the Louisiana Housing Finance Agency; the HOPWA Program by the Department of Health and Hospitals; and the ESG Program by the Department of Social Services; and

WHEREAS: the state desires to comply with the federal mandate;

NOW, THEREFORE, I, EDWIN W. EDWARDS, Governor of the state of Louisiana do hereby order and direct as follows:

SECTION 1: The Division of Administration, Office of Community Development is hereby authorized and directed to coordinate and designate, subject to state law, such state departments, agencies or other entities primarily responsible for the implementation of any function associated with HUD's Consolidated Planning Process in order to complete the research, analysis and activities required to submit the Consolidated Plan required by HUD, and any amendments or supplements thereto on behalf of the State of Louisiana;

SECTION 2: Each state department, agency or other entity identified by this executive order in accordance with the provisions of Section 1 hereof, shall cooperate with and submit such information and documentation as shall be necessary or convenient for the state of Louisiana to comply with the regulations promulgated by HUD in preparing and submitting the Consolidated Plan; and

SECTION 3: The Division of Administration, Office of Community Development is authorized and directed to submit the Consolidated Plan and any amendments or supplements thereto to HUD on behalf of the state.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the City of Baton Rouge, on this 20th day of September, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9410#007

EMERGENCY RULES

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 741—Honors Curriculum

The State Board of Elementary and Secondary Education exercised those powers conferred by the Administrative Procedure Act, 49:953(B) and readopted as an emergency rule, an amendment to the BESE Honors Curriculum in Bulletin 741 and related changes regarding Health Education requirement for high school graduation, effective for 1994-95 incoming freshmen. This amendment was previously adopted as an emergency rule and printed on page 620 of the June, 1994 issue of the *Louisiana Register*. Readoption of the emergency rule is necessary in order to continue the amendments until they are finalized as a rule. The effective date of this emergency rule is October 20, 1994.

AUTHORITY NOTE: R. S. 17:6(A),(10)

Carole Wallin
Executive Director

9410#008

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 746—Certification Changes

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted as an emergency rule, the certification changes to Bulletin 746, Louisiana Standards for State Certification of School Personnel. The rule was effective August 1, 1994, and will remain in effect for 120 days or until it is amended through the administrative procedure process. This emergency rule will bring this bulletin in conformance with legislation.

The board further granted the Department of Education administrative authority to issue higher certificates to individuals who were on a Type C certificate or who had completed certification requirements prior to August 1, 1994, and who were employed in a nonpublic school for at least three years prior to August 1, 1994.

Emergency adoption of the board action is necessary to ensure that the issuance of teaching certificates will comply with the provisions of Act 1 of the Third Extraordinary Session of the Louisiana Legislature which were effective August 1, 1994.

AUTHORITY NOTE: Act 1 of the 1994 Third Extraordinary Session of the Legislature.

Carole Wallin
Executive Director

9410#009

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1525—Personnel Evaluation Guidelines

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted as an emergency rule, revisions to pages 27, 28, and 29 of the Guidelines for Personnel Evaluation, Bulletin 1525, Revised 1992, 1994. Emergency adoption is necessary because the revised pages of Bulletin 1525, printed below must be reprinted and inserted in Bulletin 1525 that has been previously disseminated statewide. The local education agencies and all public schools must have these revisions before evaluators begin the observations of teachers or administrators. The effective date of this emergency rule is September 22, 1994.

The observation process must conform to the guidelines listed below:

1) The LEA must specify who will conduct the observation(s). The evaluator must conduct at least one of the required number of observation(s).

2) The LEA must specify how often observations will occur.

3) The evaluator of each teacher or administrator shall conduct a pre-observation conference during which the teacher or administrator shall provide the evaluator with relevant information.

4) The LEA must notify the evaluatee in advance when observation(s) will occur. LEAs must define types, if different types of observations are used.

5) The LEA must specify how the post-observation conference will be conducted.

6) The LEA must specify how copies of the completed observation forms will be disseminated and filed.

7) The LEA must specify how intensive assistance, if necessary, will be initiated following the observation procedures.

Instructional Personnel

In addition to the aforementioned guidelines, the following observation procedures are for instructional personnel.

Classroom observation is a critical aspect of the teacher evaluation process. The evaluator conducts observations that are of sufficient duration to see the lesson begin, develop, and culminate. A pre-observation conference is conducted to review the teacher's lesson plan. A post-observation conference is arranged to discuss and analyze the lesson, as well as to prepare an observation report. The primary purpose of this report is not to rate the teacher on a scale or checklist, but rather, to reach consensus on commendations, as well as recommendations for strengthening or enhancing teaching. Follow-up classroom visits and observations are conducted to determine what impact these recommendations have had on improving the quality of the teaching-learning process in the teacher's classroom.

In this section of the LEA evaluation program description, the LEA delineates its classroom observation process for teachers.

The observation process must conform to the guidelines listed below:

1) Teaching is evaluated through periodic classroom observations.

2) A pre-observation conference is held to review the teacher's lesson plan.

3) Observations are of sufficient duration to see the lesson begin, develop, and culminate.

4) A post-observation conference is held to discuss and analyze the lesson as well as to prepare an observation report.

5) The primary purpose of the classroom observation is not to rate the teacher, but rather, to reach consensus on commendations, as well as recommendations to strengthen or enhance teaching.

6) Follow-up classroom visits and observations are conducted to reinforce positive practice and to determine how recommendations have impacted the quality of the teaching-learning process.

Section 6.5

Developing the Professional Growth Plan

Periodic evaluation conferences are conducted to discuss and analyze job performance for the purpose of developing longer term (1-2 year) professional growth plans to strengthen or enhance the job performance of all certified and

other professional personnel. These professional growth plans should be developed at the beginning of the evaluation period and be based on a descriptive analysis of job performance rather than only on the results of a checklist or a rating scale. Appropriate time frames must be determined in regard to these procedures. Usually such plans include two to three objectives developed collaboratively by the evaluatee and evaluator. These plans must be reviewed and updated annually. For successful, experienced personnel, these objectives may extend beyond the professional responsibilities included in the job description and may be used to explore new, untried, innovative ideas or projects. Each objective includes a plan of action to guide the evaluatee's progress, as well as observable evaluation criteria that the evaluatee and evaluator can use to determine the extent to which each objective has been achieved. The evaluation criteria should show clearly how achievement of the objective will impact the quality of the job performance.

In this section of the LEA personnel evaluation program description, the LEA delineates its process for developing the professional growth plan.

That process must conform to the guidelines listed below:

1) All certified and other professional personnel develop longer-term professional growth plans to strengthen or enhance their job performance.

2) The professional growth plan is developed at the beginning of the evaluation period. Appropriate time frames must be determined in regard to these procedures and such time frames must be given in the narrative of this subsection. The LEA must develop forms for the professional growth plan.

3) Professional growth plans are based on objectives developed collaboratively by the evaluatee and evaluator. The successful teacher shall not be mandated to participate in any one specific growth activity. These plans must be reviewed and updated annually.

AUTHORITY NOTE: R.S. 17:3902, B,(4)

Carole Wallin
Executive Director

9410#010

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1706—Exceptional Children

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and readopted as an emergency rule, the federally required changes to Bulletin 1706 submitted by the Department of Education on May 26, 1994. Readoption of the emergency rule is necessary in order to continue the federally required changes until they are finalized as a rule. The effective date of this emergency rule is November 1, 1994. It will remain in effect for 120 days or until finalized as a rule whichever occurs first.

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

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

Carole Wallin
Executive Director

9410#011

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1706—Exceptional Children

The State Board of Elementary and Secondary Education exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and readopted as an emergency rule, Bulletin 1706, Regulations for Implementation of the Exceptional Children's Act, effective November 1, 1994, except for an amendment to page 119, Part B.1.F.2 of the bulletin and amendments approved the board on May 26, 1994. The revision to page 119 appeared on page 1285 of the October, 1993 issue of the *Louisiana Register* as an emergency rule and was adopted as a rule in February, 1994. Readoption of Bulletin 1706 is necessary in order to continue the present emergency rule until it is finalized as a rule.

Bulletin 1706 which was adopted as an emergency rule effective July 1, 1993 remains in effect, along with the newly adopted federal regulations. The effective date of this emergency rule is November 1, 1994. It will remain in effect for 120 day or until finalized as a rule, whichever occurs first.

The amendments approved by the board on May 26, 1994 are also being advertised in this issue of the *Louisiana Register* as an emergency rule. [See Log 9410#011]

Bulletin 1706 contains statewide rules and regulations enforcing the requirements of state and federal laws which assure a free, appropriate public education to all exceptional children, ages 3 through 21 years. Responsibilities of state and local public and nonpublic educational agencies are given. Bulletin 1706 may be viewed in its entirety in the Office of the State Register, Capitol Annex, Room 512, 1051 North Third Street, Baton Rouge, LA; in the Office of Special Educational Services, State Department of Education; and in the Office of

the State Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge, LA.

Carole Wallin
Executive Director

9410#012

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Student Count for MFP (LAC 28:I.1709)

The State Board of Elementary and Secondary Education exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B), and suspended for one year, its policy on Student Counting for MFP Funding. This rule has not been changed, only suspended for one year. Readoption as an emergency rule is necessary in order to continue the present emergency rule under which the Student Count for MFP Funding was suspended for one year. The policy was previously adopted as an emergency rule and was printed on page 622 of the June, 1994 issue of the *Louisiana Register*.

The effective date of this emergency rule is October 20, 1994, for 120 days.

AUTHORITY NOTE: R.S. 17:6

Carole Wallin
Executive Director

9410#013

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Teacher Assessment Program (LAC 28:I.917)

The State Board of Elementary and Secondary Education exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B), and readopted as an emergency rule, the Louisiana Teacher Assessment Program, Policies and Procedures for Louisiana Teacher Assessment, which is part of the Louisiana Teacher Appraisal Instrument Panel Report (Panel IV). Section X, Grievance Procedure, is not included in the policies and procedures at this time, but will be added after board approval.

The policies and procedures were printed as part of the Louisiana Teacher Assessment Program Training Manual and disseminated to the local education agencies (LEAs) and all public schools statewide.

Readoption as an emergency rule is necessary in order assist the LEAs in implementation of the policies and procedures in the Louisiana Teacher Assessment Program which began with the 1994-95 school year and is mandated by the Louisiana Legislature, Third Extraordinary Session, 1994. The effective date of this emergency rule is October 23, 1994 for 120 days or until the final rule takes effect whichever occurs first. This document was previously advertised as an emergency rule and appeared on page 746 of the July, 1994 issue of the *Louisiana Register*.

This document may be viewed in its entirety in the Office of the State Register, Capitol Annex, Room 512, Baton Rouge, LA; in the Office of Research and Development, State Department of Education; or in the Office of the Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge, Louisiana. The policies and procedures for Louisiana Teacher Assessment will be referenced in Administrative Code, Title 28 as noted below.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§917. Personnel Evaluation Standards and Regulations

* * *

B. Teacher Assessment and Evaluation

* * *

2. Policies and Procedures for Louisiana Teacher Assessment (June, 1994) are adopted.

The Louisiana Teacher Assessment Program, which provides for the support and assessment of new teachers, was mandated by the Louisiana Legislature in the Third Extraordinary Session of 1994. The policies and procedures for the Louisiana Teacher Assessment are the guidelines by which a teacher teaching in Louisiana public schools for the first time will be assessed. The policies and procedures set forth the philosophy and purposes of the Louisiana Teacher Assessment Program as well as the time frames for conducting the assessments.

AUTHORITY NOTE: R.S. 17:3881-3884, R.S. 17:3891-3896 and R.S. 17:3901-3904.

Carole Wallin
Executive Director

9410#014

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Repeal of Teacher Tuition Exemption Program
(LAC 28:I.921)

The State Board of Elementary and Secondary Education, at its meeting of September 23, 1994, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and repealed the current regulations for the Tuition Exemption Program for Teachers (FY 93-94), since the board is no longer funding the Teacher Tuition Exemption Program

which was established by the legislature. Two new professional development programs will be funded with the 8(g) funds previously allocated to the Tuition Exemption Program.

Readoption of this emergency rule is necessary in order for the colleges, universities, and teachers to continue the implemention until the amendment is finalized as a rule. Effective date of this emergency rule is October 23, 1994, and it will remain in effect for 120 days or until finalized as a rule, whichever occurs first.

This action, which is also an amendment to the Administrative Code, Title 28, was previously printed as an emergency rule on page 746 of the July, 1994 issue of the *Louisiana Register* and contained additional information. The reference to the teacher tuition exemption program for FY 93-94 (Subsection B) is deleted from LAC 28:I.921.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§921. Quality Education Support Fund 8(g)

A. Bulletin 921: Policy Manual

* * *

B. Teacher Tuition Exemption Program, FY 93-94
Repealed.

C. Tuition Exemption: VTIE Teachers

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 14:10 (January 1988), amended LR 14:146 (February 1988), LR 14:228 (March 1988), LR 14:393 (April 1988), LR 14:702 (October 1988), LR 14:790 (November 1988), LR 14:862 (December 1988), LR 15:8 (January 1989), LR 15:181 (March 1989), LR 15:260 (April 1989), LR 15:468 (June 1989), LR 15:1058 (December 1989), LR 16:297 (April 1990), LR 20:

Carole Wallin
Executive Director

9410#003

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Waivers of Minimum Standards (LAC 28:I.313)

The State Board of Elementary and Secondary Education, at its meeting of June 23, 1994, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and readopted as an emergency rule, a revision to LAC 28:I.313, Waivers of Minimum Standards: Procedures. This amendment is being readopted as an emergency rule in order to continue the present emergency rule until finalized as a rule. The effective date of this emergency rule is October 23, 1994, for 120 days or until the final rule takes effect whichever occurs first.

This amendment was previously adopted as an emergency rule and printed on page 747 of the July, 1994 issue of the *Louisiana Register*.

AUTHORITY NOTE: R.S. 17:6(A); (10); R.S. 17:7.

Carole Wallin
Executive Director

9410#015

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Office of Facility Planning and Control

Capital Outlay Request Forms (LAC 34:III.201)

Under the authority of R.S. 39:102.C., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), et seq., the director gives notice that the Capital Outlay Budget Request Forms and Instructions have been revised.

Emergency rulemaking is necessary in order to provide the revised forms and instructions to agencies for fiscal year 1995-96 budget submittal.

The full text of this revision may be obtained from the Office of the State Register, or Facility Planning and Control, 1051 North Third Street, Capitol Annex Building, Baton Rouge, LA.

These revisions are to become effective upon publication in the *Louisiana Register*, for the maximum of 120 days or until they take effect through the normal administrative procedure process whichever occurs first.

Roger Magendie
Director

9410#083

DECLARATION OF EMERGENCY

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 Secretary, Bureau of Health Services Financing, adopted the following rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B). This emergency rule shall become effective October 29, 1994 and

shall remain in effect for 120 days or until final rule promulgation takes effect whichever occurs first.

Emergency Rule

The Bureau of Health Services Financing adopts the following requirements which govern the operation of certified medicaid enrollment centers under Title XIX of the Social Security Act. The enrollment center is responsible for ensuring that all of its employees maintain compliance with the following requirements.

A. In order to participate as an enrollment center, the provider applicant must not have been suspended or excluded from the Medicaid Program and must meet one of the following definitions:

1. an institutional provider of Medicaid services (e.g. hospitals, long term care facilities);

2. a state program which provides health or social services to the local population which is staffed by state employees (e.g. parish health units, mental health units).

3. a federally funded program which provides health or social services to the local population authorized under Section 329, 330 and 340 of the Public Health Services Act (e.g. FQHC).

4. a parish, state, or federally sponsored program providing services to the community; has designated business offices with established hours of operation; a full-time staff who works with the general public performing the normal duties of the program; and the endorsement and recommendation of local government for certification training (e.g. Headstart);

5. a private program providing health or social services to an identifiable segment of the local community; designated business offices with established hours of operation; a full-time staff who works with the general public in performing the duties of the program; and the endorsement and recommendation of local government for certification training (e.g V.O.A., Catholic Community Services, etc.);

6. home health agencies or other agencies/programs specifically approved by the Bureau of Health Services Financing.

B. Required Training/Certification

Prospective enrollment center managers are required to attend a management orientation after which referred qualified personnel of the center must successfully complete the Medicaid enrollment center representative training. The representative training includes an overview of the Medicaid programs available, the eligibility factors considered in the application process, precertification responsibilities, and a detailed review of the comprehensive application process.

C. Contractual Agreement: DHH-BHSF and enrollment center. The rights and responsibilities of DHH-BHSF and the enrollment centers are outlined in the contractual agreement between the BHSF and the chief administrative officer/administrator of the institution or agency seeking to become an enrollment center.

1. The Department of Health and Hospitals, Bureau of Health Services Financing, is responsible for the administration and oversight of the enrollment center's participation in the Medicaid Program. The Department of Health and Hospitals agrees to assist enrollment centers in the following ways:

a. each potential enrollment center is furnished with an application, the standards for participation and a contractual agreement. Management staff is required to attend an enrollment center management orientation.

b. BHSF provides for Medicaid enrollment center representative training for approved EC staff after the EC has completed the requirements in Item 1.a. above;

c. BHSF awards the EC representative a certification letter, certificate and an EC handbook to those approved EC staff who have attended EC representative training and passed the required test;

d. DHH-BHSF will monitor EC operations to assure quality service is being offered to applicants;

e. DHH-BHSF will review, approve and refer for processing and payment all complete invoices.

2. Contractual Agreement/Responsibilities. The contractual agreement must be signed by the duly authorized representative of the enrollment center. If the enrollment center is a corporation, the authorization should be evidenced by a corporate resolution which authorizes a particular person to sign on behalf of the corporation. If the enrollment center is a partnership, the authorization should be evidenced by the articles of partnership. Once the duly authorized representative of the enrollment center signs the contractual agreement with the bureau, the enrollment center and its employees are bound by the contractual agreement. The signature of the duly authorized representative serves as the facility's agreement to abide by all policies and that to the best of his/her knowledge, the information contained on the application form is true, accurate and complete. Once the contractual agreement between the DHH and the enrollment center is completed, the enrollment center:

a. becomes an agent of the state and in so doing the enrollment center or any of its employees is prohibited from acting on behalf of the client or serving in the role of the client's authorized representative;

b. understands that their facility must qualify based upon the standards for participation. The duly authorized representative must sign the contractual agreement must sign the contractual agreement and must attend the enrollment center management orientation;

c. agrees to adhere to the applicable regulations of the secretary and the Department of Health and Hospitals, Bureau of Health Services Financing. The enrollment center agrees to comply with all rules governing its participation as an enrollment center;

d. understands that it has the right to terminate its agreement for any reason in writing with 30 days prior notice to DHH. The enrollment center understands that DHH has the right to terminate the agreement with 10 days notice for violation of any of the stated agreements and responsibilities as set forth in the agreement. The agency reserves the right to institute a 30 day period of corrective action in coordination with the enrollment center;

e. agrees to maintain such records as outlined in the enrollment center handbook. These records are to be provided upon request by the state Medicaid agency, the secretary of

the Department of Health and Hospitals, the Medicaid fraud control unit, or the U. S. Department of Health and Human Services. These records must be maintained for a minimum of three years from the date of service;

f. understands that, as a condition of enrollment and participation, it is responsible for assuring and monitoring confidentiality (including, but not limited to, the fact that the intake or enrollment unit of the provider entity is prohibited under the rules of confidentiality from sharing any information pertaining to the recipient with any other unit of the provider entity), nondiscrimination and quality standards and adhering to federal and state requirements relative thereto;

g. must undergo periodic monitoring by state and/or federal officials without prior notice and agree that state and/or federal officials will have access to the premises to inspect and evaluate work being performed. The enrollment center understands that decertification may result if, according to the determination of the state of federal agency, nonconformance with policies is found;

h. agrees that only persons who have successfully completed certification training with a passing grade will be allowed to complete Medicaid applications and agrees that any change in certified staff will be reported to DHH within 10 days to be recorded in the enrollment center profile. The enrollment center shall keep a copy on file of each employee certification document. Replacement staff must be trained and certified prior to completing applications;

i. understands that participation is required in follow-up training provided as specified by BHSF;

j. understands that the Medicaid enrollment center handbook will be furnished to the facility at no cost and agrees to comply with the provisions of the Medicaid enrollment center handbook. The enrollment center will be responsible for maintaining and updating this handbook as revisions are issued;

k. understands that application packets will be distributed by DHH. It is the responsibility of the enrollment center to maintain an applications transmittal log. Transmittal logs will be used for submitting applications, invoicing, monitoring and review purposes;

l. must forward all completed applications to DHH within established time frames, as stated by the enrollment center in the contractual agreement. All applications must be accompanied with a transmittal log for proper documentation;

m. must adhere to applicable state and federal laws and regulations.

3. Either party may terminate the contract in writing. Thirty days prior notice is required for an enrollment center to terminate its contract with the Department of Health and Hospitals while 10 days prior notice is required for the department to terminate its contract with the enrollment center.

Rose V. Forrest
Secretary

9410#041

DECLARATION OF EMERGENCY

Department of Social Services
Office of Rehabilitation Services

Order of Selection Policy (LAC 67:VII.101)

In accordance with the provisions of R.S. 49:953(B), the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) proposes to revise its Order of Selection Policy through the emergency rule provision.

The purpose of this emergency rule, effective November 1, 1994, for 120 days, is to revise the rule governing Louisiana Rehabilitation Services' Order of Selection Policy to ensure that individuals with the most severe disabilities receive priority for cost rehabilitation services. This revision is federally mandated and must be implemented in a timely manner so as to avoid the loss of federal funding.

Copies of the entire text of the revised policy manual may be obtained at Louisiana Rehabilitation Services headquarters, 8225 Florida Boulevard, Baton Rouge, LA and each of its nine regional offices; and also at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

Title 67
SOCIAL SERVICES
Part VII. Louisiana Rehabilitation Services
Chapter 1. General Provisions
§101. Policy Manual

LRS Policy Manual, fiscal year 1994, provides opportunities for employment outcomes and independence to individuals with disabilities through vocational and other rehabilitation services. Its policy manual guides its functions and governs its actions within the parameters of federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Louisiana Rehabilitation Services, LR 17:891 (September, 1991), amended LR 20:317 (March 1994).

Gloria Bryant-Banks
Secretary

9410#043

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Channel Catfish

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and under the authority of R.S. 56:326, the Wildlife and Fisheries Commission, in order to establish a permit area for the taking of channel catfish between eight inches and 11 inches, eight

inches inclusive, the Wildlife and Fisheries Commission hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule for: Channel Catfish — Lac des Allemands, Lake Salvador, Lake Cataouatche, Lake Maurepas, and the western portion of Lake Pontchartrain, and associated bayous and streams.

For those persons with a department-issued permit, the minimum length on channel catfish, locally called the white; the eel cat; or the willow cat; taken or possessed for commercial purposes, shall be eight inches minimum length with the mouth closed, in the following described area (hereinafter "the permit area"): That portion of southeastern Louisiana, containing Lac des Allemands, Lake Salvador, Lake Cataouatche, Lake Maurepas, the western portion of Lake Pontchartrain and associated bayous and streams, excluding the Mississippi River and Bayou Lafourche, herein described as: west and south of the west descending bank of the Mississippi River from the Gulf of Mexico to the Huey P. Long Bridge; north and west of Highway 90 from Huey P. Long Bridge to Causeway Boulevard; west of Lake Pontchartrain Causeway from U.S. Highway 90 to Louisiana Highway 22; south and east of Louisiana Highway 22 to U.S. Highway 61 at Sorrento; north of U.S. 61 from Sorrento to Louisiana Highway 20; east of Louisiana Highway 20 to the east descending bank of Bayou Lafourche at Thibodaux; east of the east descending bank of Bayou Lafourche to Louisiana Highway 1 at Leeville; east and north of Louisiana Highway 1 from Leeville to the Gulf of Mexico; north of Gulf of Mexico from Grand Isle to the west descending bank of the Mississippi River.

In all other state waterbottoms outside of the permit area, all persons are subject to the statutorily prescribed size limits for channel catfish set out in R.S. 56:326.A.(7)(b).

The permit shall provide for the following: (1) necessity of permit possession at all times while taking or possessing channel catfish between the sizes of eight inches and 11 inches, eight inches inclusive; (2) reporting before the 10th of each month on forms approved for the purpose the number of channel catfish commercially taken during the preceding month and their sizes and other information required by the department; (3) the necessity for all other licenses or permits required to commercially fish and land commercially taken channel catfish; (4) non-transferability of permit; (5) issuance only to a natural person who must be physically present and have in his possession the signed original permit at all times that channel catfish, subject to the permit, are being taken in the permit area; (6) that permittees are specifically prohibited from harvesting or possessing channel catfish under eight inches within the permit area, subject to the immediate revocation of the permit for the first or any subsequent violation thereof; (7) that permittees are prohibited from possessing channel catfish between the sizes of eight inches and 11 inches, eight inches inclusive, in a boat or on the water outside of the permit area; and (8) all channel catfish between the sizes of eight inches and 11 inches, eight inches inclusive, must be landed within the permit area.

The permits shall be effective only for a period of three months beginning Monday, October 17, 1994 and ending January 17, 1995. The fee for said permit shall be $25 per permit.

Emergency action is necessary to provide immediate information on the catch and sales of under-11 inches channel catfish in the designated area and to relieve economic hardship on the commercial fishermen in the permit area.

John F. "Jeff" Schneider
Chairman

9410#032

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

King Mackerel Commercial Fishing Closure

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

Effective midnight October 15, 1994, the commercial fishery for king mackerel in Louisiana waters will close and remain closed until 12:01 a.m., July 1, 1995.

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

Joe L. Herring
Secretary

9410#031

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Net Ban During Lake Drawdown

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and under the authority of R.S. 56:22(B), the Wildlife and Fisheries Commission, in order to protect fish populations in freshwater impoundments during water drawdown periods, does hereby enact the following rule.

All freshwater impoundments shall be closed to use of commercial fish netting during water drawdown periods, unless otherwise specified by the department based upon biological and technical data; the closure to begin on the date the drawdown control structure is opened and continued until the lake returns to full pool following closure of the structure.

Emergency action is necessary to provide immediate protection to fish populations in impoundments that are presently, or soon will be in the drawdown condition.

John F. "Jeff" Schneider
Chairman

9410#025

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Vermilion Night Shrimp Closure

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act and R.S. 56:6(25)(a), the Wildlife and Fisheries Commission hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

The Louisiana Wildlife and Fisheries Commission does hereby prohibit shrimping between official sunset and official sunrise in the inside waters as described in R.S. 56:495 from the western side of the Atchafalaya River Channel out to Eugene Island to the western shore of Vermilion Bay, not to include Southwest Pass at Marsh Island south of a line drawn from the following points:

The western side of Southwest Pass at its northwestern point to the Green Light Channel Marker Number 9, at latitude 29°36′58″ longitude 92°00′21″, thence northeast to Green Light Channel Marker Number 1, at latitude 29°37′34″ longitude 91°59′36″, thence southeast to the eastern side of Big Charles Bayou, at latitude 29°36′54″ longitude 91°59′00″, thence southwesterly to the western shore of Big Charles Bayou, at latitude 29°36′50″ longitude 91°59′12″.

The effective date of this emergency rule is October 7, 1994, for the remainder of the 1994 Fall Inshore Shrimp Season.

The Louisiana Wildlife and Fisheries Commission finds that the rule previously enacted placed a hardship on those local fishermen who traditionally fished in the deeper portions of Southwest Pass which extends into Vermilion Bay. Additionally the former closure restricted vessel traffic in Southwest Pass, in effect creating a safety problem and hazard to navigation.

John F. "Jeff" Schneider
Chairman

9410#021

RULES

RULE

Department of Economic Development
Office of Financial Institutions

Credit Union Service Contracts (LAC 10:IX.301 and 303)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:644(B)(3)(d) and R.S. 6:656(A)(4), the commissioner of financial institutions hereby adopts the following rule for the purpose of establishing prudential standards for state-chartered credit unions that invest in and make loans to credit union service organizations.

Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC
Part IX. Credit Unions
Chapter 3. Credit Union Service Organizations
§301. Credit Union Service Contracts

A. A state-chartered credit union may act as a representative of and enter into a contractual agreement with one or more credit unions or other organizations for the purpose of sharing, utilizing, renting, leasing, purchasing, selling, and/or joint ownership of fixed assets or engaging in activities and/or services which relate to the daily operations of credit unions. Agreements must be in writing, and shall clearly state that the commissioner of financial institutions, or his representative, will have complete access to any books and records of the credit union service organization as deemed necessary in carrying out his responsibilities under the Louisiana Credit Union Law.

B. If any agreement requires, the payment in advance of the actual or estimated charges for more than three months, such payment shall be deemed an investment in a credit union service organization and subject to the limitations delineated in R.S. 6:644(B)(3)(d) and R.S. 6:656(A)(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

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

§303. Investments in and Loans to Credit Union Service Organizations

A. Scope. Sections 644(B)(3)(d) and 656(A)(4) of Title 6 of the Louisiana Revised Statutes authorize state-chartered credit unions to invest in and make loans to credit union service organizations. This rule implements that statute by addressing various issues, including monetary limits on loans and investments, the structure of credit union service organizations, their customer base, and the range of services and activities that they may provide. The rule also establishes prudent standards for a state-chartered credit union's involvement with credit union service organizations, through provisions concerning conflicts of interest, accounting

practices, and access by the Office of Financial Institutions to books and records. The rule applies only in cases where one or more state-chartered credit unions have invested in or made loans to an organization pursuant to Section 644(B)(3)(d) or 656(A)(4). The rule does not regulate credit union service organizations directly; instead, it establishes conditions of state-chartered credit union investments in and loans to such organizations.

B. Limits Imposed by R.S. 6:644(B)(4)(d) and R.S. 6:656(A)(4). The provisions of Chapter 8, Title 6, Louisiana Revised Statutes, Credit Unions:

1. authorize a state-chartered credit union to invest in shares, stocks, loans, or other obligations of credit union service organizations in amounts not exceeding, in the aggregate, one percent of the credit union's paid-in and unimpaired capital and surplus;

2. authorize a state-chartered credit union to make loans to credit union service organizations in amounts not exceeding, in the aggregate, one percent of the credit union's paid-in and unimpaired capital and surplus;

3. require that a credit union service organization's activities be confined or restricted to credit unions and exist primarily to meet the needs of their member credit unions, and whose business relates to the daily operations of the credit unions they serve; and

4. require that a state-chartered credit union's investment in or loan to a credit union service organization must receive the prior approval of the board of directors and documented in its official minutes.

C. Definitions

Affiliated Credit Union—a credit union which has either invested in or made loans to a credit union service organization.

Immediate Family Member—a spouse or other family member living in the same household.

Official—any director or committee member.

Paid-in and Unimpaired Capital and Surplus—shares and undivided earnings.

Senior Management Employee—the credit union's president, vice president, secretary, treasurer, chief executive officer, any assistant chief executive officers, the chief financial officer, or any other elected officer of an affiliated credit union.

D. Regulatory Provisions

1. Limits on Funding. A state-chartered credit union, either alone or with other credit unions and/or with non-credit-union parties, may invest in and/or lend to a credit union service organization. A state credit union's investment in paid-in and unimpaired capital and surplus of a credit union service organization may not exceed, in the aggregate, one percent of the credit union's capital and surplus as of its last calendar year-end financial report. In addition, a state-chartered credit union's loans to credit union service organizations may not exceed, in the aggregate, one percent of the credit union's paid-in and unimpaired capital and surplus as of its last calendar year-end financial report.

2. Structure. A state-chartered credit union may invest in or lend to a credit union service organization only if the organization is structured as a corporation or a limited partnership.

a. Corporation. A credit union service organization chartered as a corporation or limited liability company must be adequately capitalized and operated as a separate entity. A state-chartered credit union investing in or lending to such a corporation must take all steps necessary to ensure that it will not be held liable for obligations of the corporation.

b. Limited Partnership. A state-chartered credit union may participate only as a limited partner in a credit union service organization structured as a limited partnership or registered limited liability partnership. As a limited partner, the credit union must not engage in those activities (e.g., control, management, decision making), which, under state law, would cause the credit union to lose its status as a limited partner, and, correspondingly, its limited liability, and be treated as a general partner.

3. Legal Opinion. A state-chartered credit union making an investment in or loan to a credit union service organization must obtain written legal advice as to whether the credit union service organization is established in a manner that will limit the credit union's potential exposure to no more than the loss of funds invested in or lent to the credit union service organization.

4. Customer Base. A state-chartered credit union may invest in or loan to a credit union service organization only if the organization primarily serves credit unions and/or the membership of *Affiliated Credit Unions*, as defined in Subsection C.1 of this Section.

5. Permissible Services and Activities

a. A state-chartered credit union may invest in and/or loan to those credit union service organizations which provide only one or more of the following services and activities:

i. Operational Services. Credit card and debit card services; check cashing and wire transfers; internal audits for credit unions; ATM services; EFT services; data processing; shared credit union branch (service center) operations; sale of repossessed collateral; management, development, sale or lease of fixed assets; sale, lease or servicing of computer hardware or software; management and personnel training and support; payment item processing; locator services; marketing services; research services; record retention and storage; microfilm, microfiche, and optical disk services; alarm monitoring and other security services; debt collection services; credit analysis; consumer mortgage loan origination; loan processing, servicing and sales; coin and currency services; provision for forms and supplies.

ii. Financial Services. Financial services are limited to those activities as enumerated in 12 CFR §701.27(d)(5)(ii), and approved for federally-chartered credit unions operating in the state.

b. Additional services or activities MUST be approved by the commissioner of financial institutions before a state-chartered credit union may invest in or loan to the credit union service organization that offers the service or activity.

6. Conflict of Interest

a. Individuals who serve as officials of, or senior management employees of an affiliated state-chartered credit union, as defined in Subsection C.1 of this Section, and

immediate family members of such individuals, may not receive any salary, commission, investment income, or other income or compensation from a credit union service organization, either directly or indirectly, or from any person being served through the credit union service organization. This provision does not prohibit an official or senior management employee of a state-chartered credit union from serving on the board of directors of a credit union service organization, provided the individual is not compensated by the credit union service organization.

b. The prohibition contained in Subsection D.6.a of this Section also applies to any affiliated state-chartered credit union employee not otherwise covered if that employee is directly involved in dealing with the credit union service organization, unless the board of directors determines that the employee's position does not present a conflict of interest.

c. All transactions with business associates or family members not specifically prohibited by this Subsection D.6 must be conducted at arm's length and in the interest of the credit union.

7. Accounting Procedures; Access to Information

a. Credit Union Accounting. A state-chartered credit union must follow generally accepted accounting principles (GAAP) in its involvement with credit union service organizations.

b. Credit Union Service Organization Accounting; Audits and Financial Statements; OFI Access to Books and Records. An affiliated state-chartered credit union must obtain written agreements from a credit union service organization, prior to investing in or lending to the organization, that the organization will:

i. follow GAAP;

ii. render financial statements (balance sheet and income statement) at least quarterly and obtain a certified public accountant audit annually and provide copies of such to the affiliated state-chartered credit union; and

iii. provide the commissioner of financial institutions, or his designated representatives, with complete access to any books and records of the credit union service organization, as deemed necessary in carrying out his responsibilities under the Louisiana Credit Union Law;

iv. notwithstanding the examinations fees, authorized by R.S. 6:646(B)(4), the commissioner may charge a fee of $50 per hour per examiner for the purpose of determining whether an affiliated state-chartered credit union and the credit union service organization are in compliance with the Louisiana Credit Union Law and this rule. The cost of any such compliance review shall be billed directly to the credit union service organization.

E. Other Laws. A credit union service organization must comply with applicable state, federal and local laws.

F. Effective Date. This rule shall become effective on October 20, 1994.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

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

Larry L. Murray
Commissioner

9410#081

RULE

Department of Economic Development
Office of Financial Institutions

Loan Production Offices (LAC 10:XV.1133)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:452, the commissioner hereby adopts the following rule to implement the provisions of Act 112 of 1992 to provide for the establishment and regulation of Loan Production Offices by federally insured depository institutions.

Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC
Part XV. Other Regulated Entities
Chapter 11. Loan Production Offices
Subchapter B. Applications
§1133. General Provisions

A. Definitions

Applicant—a financial institution seeking a certificate of authority from the commissioner.

Application—shall consist of forms prescribed by the commissioner, submitted in a completed form, along with all supporting documents, and other information required by this rule, requesting that a certificate of authority be issued.

Commissioner—the commissioner of financial institutions.

Financial Institution—any bank, savings bank, homestead association, building and loan association, or savings and loan association.

Loan Production Office—a location, other than the financial institution's main office or branch office, where the employees of a financial institution conduct the solicitation and origination of applications for loans, provided that the loans are approved and made at the main office or branch office and which location is subject to the provisions of this rule.

B. Application

1. Filing. All applications filed in accordance with this rule shall be accompanied by a nonrefundable fee as prescribed by the commissioner and shall be in such form and contain such information as the commissioner may from time to time prescribe. When application is made, the original and one copy, must be submitted. The commissioner may approve a substantially complete application after consideration of the factors set forth in the following sections. A reasonable amount of time may be utilized in analysis of these factors and additional information may be requested when deemed necessary. Any material submitted must have prior approval

from the financial institution's board of directors before filing an application.

2. In-State Financial Institution for In-State Loan Production Office

a. Approval Process. The commissioner may approve any request to establish a loan production office if he finds that the proposed operation of such loan production office does not violate the provisions of the rule. The commissioner may in his sole discretion, assign written reasons for his decision which shall be released only to the applicant.

b. Factors to be Considered. The following five factors shall be considered within the application as well as any additional factors deemed necessary and appropriate:

i. financial history and condition;

ii. adequacy of capital;

iii. future earnings prospects;

iv. management;

v. convenience and needs of the community.

3. In-State Financial Institution for an Out-of-State Loan Production Office. In addition to the requirements in Subsection B.2, an in-state financial institution seeking to establish a loan production office out-of-state shall submit the following:

a. a "No Objection Letter" from the appropriate chartering authority in the state which the loan production office is to be located;

b. a letter or other evidence of authority from the secretary of state in the state which the loan production office is to be located, indicating that the applicant is authorized to do business in that state.

4. Out-of-State Financial Institution for an In-State Loan Production Office. An out-of-state financial institution seeking to establish a loan production office in state must submit the following:

a. a letter stating no objection to the commissioner's request to obtain a copy of the financial institution's latest examination report from the primary regulator of the applicant;

b. a copy of its most recent external audit;

c. a board resolution authorizing establishment of a loan production office;

d. a letter or other evidence of authority from the Louisiana secretary of state's office (if applicable) indicating that the applicant is authorized to do business in this state.

5. Approval Process. The commissioner may approve any request to establish a loan production office unless he finds that the proposed operation violates the provisions of this rule or any other pertinent provision of law. The commissioner may in his sole discretion assign written reasons for his decision which shall be released only to the applicant.

C. Activities

1. Permissible Activities. A loan production office operating in Louisiana is limited to the following activities:

a. soliciting loans on behalf of its financial institution or one of its wholly-owned subsidiaries, by any means which discloses the nature and limitations of the loan production office;

b. providing information on loan rates and terms;

c. interviewing and counseling loan applicants regarding loans only, including the provisions for disclosure required by various regulation; and

d. aiding customers in the completion of loan applications including the obtaining of credit investigations, ordering title insurance, mortgage certificates, hazard insurance or any other information deemed necessary to insure that the loan application is complete.

e. accepting of loan payments;

f. signing or accepting of notes, security agreements, or other instruments obligating the loan customer to the financial institution;

g. delivering loan proceeds to the customer as long as the check is not written at the loan production office but is written at the main office or branch office;

2. Prohibited activities. A loan production office operating in Louisiana is prohibited from conducting or engaging in the following:

a. providing forms which enable the customer to open deposit accounts directly or by mail;

b. counseling customers regarding savings accounts, checking accounts, or any other services except loan origination services;

c. advertising, stating or implying that the loan production office provides services other than loan origination services;

d. providing information to a customer concerning the status of the customer's non-loan accounts at the financial institution;

e. charging, or providing for the charging of, interest on loans running from a date prior to the time at which the proceeds of the loan are actually disbursed to the customer by the loan production office's main office or branch office;

f. approving loans or making lending decisions (Approval of loans at the main office or branch office shall be in accordance with safe and sound lending practices, including a review of the credit quality of the loan and a determination that it meets the applicant's credit standards. In making an independent credit decision, the employee at the main office or branch office may consider recommendations made by the loan production office as a factor when assessing the credit quality of the loan.); and

g. operating an electronic funds terminal (EFT) facility within the loan production office.

D. Closure or Change of Location of Loan Production Office

1. The prior written approval of the commissioner is required at least 30 days prior to the closure or change of location of a loan production office.

2. If the loan production office participates in the activity of accepting of loan payments, all customers of the financial institution must be given reasonable prior notice of the closure of the loan production office. This notification should include an alternative address in which loan payments can be made.

E. Other

1. Periodic Inspection. Upon issuance of a certificate of authority, a loan production office may be subject to periodic inspection by the Office of Financial Institutions to ensure compliance with its rules and regulations concerning loan production office activities. With just cause and in order to

ensure compliance with the rules and regulations concerning loan production office activities, the commissioner may order an inspection of an out-of-state loan production office. All expenses incurred by this office as a result of the inspection shall be paid in full by the financial institution. Should the operations of a loan production office be found to be in noncompliance under this rule the commissioner may revoke the loan production office's certificate of authority or take any other measure deemed necessary under his powers pursuant to Louisiana Revised Statutes of 1950, Title 6:121 and 6.121.1, or any other pertinent provisions of the law.

2. Existing Loan Production Office. Financial institutions currently operating loan production offices shall register, by letter, said offices with the commissioner of the Office of Financial Institutions within 60 days of the effective date of this rule. The letter must indicate the name and title of the officer in charge and the municipal or rural address of the loan production office(s) to allow for the issuance of a certificate of authority from this office.

3. Emergency Issuance of Certificate of Authority. In the case of acquisition of a failed or failing financial institution, the commissioner may waive any provision of this rule which is not required by statute, for the purpose of issuing a certificate of authority to operate a loan production office by the acquiring institution.

4. Name. Loan production offices shall include the words "loan production office" in their title, official documents, letterhead, advertisements, signs, or in any other medium prescribed by the commissioner. The words "loan production office" must be at least as large as the name of the financial institution.

5. Sharing of Loan Production Quarters. Loan production quarters may be shared by one or more financial institutions provided that each financial institution complies with the provisions of this rule. In addition, a written agreement between all parties, approved by the respective boards of directors, must be submitted to the commissioner for approval prior to commencement of operations. The agreement should outline the manner in which:

a. the operations of each financial institution will be separately identified and maintained within the loan production quarters;

b. the assets and records will be segregated;

c. expenses will be shared;

d. confidentiality of financial institution's records will be maintained;

e. and any additional provisions deemed applicable.

6. Effective Date. This rule shall become effective on October 20, 1994.

AUTHORITY NOTE: Promulgated in accordance with Act 112 of 1992.

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

Larry L. Murray
Commissioner

9410#080

RULE

Board of Elementary and Secondary Education

Bulletin 1929—Accounting and Governmental Handbook (LAC 28:I.912)

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:950 et seq., and adopted Bulletin 1929, Revised Louisiana Accounting and Governmental Handbook for Local School Boards, Revised 1994. This handbook will be included in the Administrative Code, Title 28 as noted below:

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§912. Accounting and Reporting Procedures

Bulletin 1929

1. Bulletin 1929, Revised Louisiana Accounting and Governmental Handbook for Local School Boards, revised 1994 is adopted.

2. The primary purpose of the Louisiana Accounting and Uniform Governmental Handbook for Local School Boards is to serve as a vehicle for program cost accounting at the local and state levels. This handbook attempts to produce comprehensive and compatible sets of standardized terminology for use in education management for financial reporting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and 17:92.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 20: (October 1994).

Bulletin 1929 may be viewed in its entirety at the Office of the State Register, 1051 North Third Street, Capitol Annex, Room 512, Baton Rouge, LA; at the Office of Finance and Management in the State Department of Education, or at the Office of the Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, LA.

Carole Wallin
Executive Director

9410#055

RULE

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

Biomedical Waste and Refuse Incinerators
(LAC 33:III.2501, 2511, and 2521)
(Repeal 1319, 5191) (AQ83)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has repealed LAC 33:III.1391 and 5191 and adopted LAC 33:III.2501, 2511, and 2521 (AQ83).

The rule strikes existing sections LAC 33:III.1319 and 5191 of Air Quality regulations and reorganize them in LAC 33:III, Chapter 25, Miscellaneous Incineration Rules. The rule is being edited to correct for technical clarifications.

The existing rules appear to be in chapters where they do not directly belong. The new Chapter 25 is specifically set for miscellaneous incineration rules which will include identical text from the existing LAC 33:III.1319 and 5191.

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

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

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

Subchapter D. Refuse Incinerators

§1319. Refuse Incinerators

Repealed. See new Chapter 25, Miscellaneous Incineration Rules.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended, LR 14:348 (June 1988), repealed by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (October 1994).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter W. Incinerators

§5191. Standards of Performance for Biomedical Waste Incinerators

Repealed. See new Chapter 25, Miscellaneous Incineration Rules.

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 18:1119 (October 1992), repealed, LR 20: (October 1994).

Chapter 25. Miscellaneous Incineration Rules

Subchapter A. Scope and General Provisions

§2501. Scope

This Chapter identifies the standards which apply to incineration activities regulated by the state of Louisiana.

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

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

Subchapter B. Biomedical Waste Incinerators

§2511. Standards of Performance for Biomedical Waste Incinerators

A. Applicability

1. This Subchapter applies to all incinerators installed and operated in Louisiana for the purpose of reducing potentially infectious medical waste generated in all health and medical care facilities as defined herein.

2. Crematories are exempt from this Subchapter.

B. Definitions. The words and terms used in this Subchapter are defined in LAC 33:III.Chapter 51, and LAC 33:III.111 and 3103 unless otherwise specifically defined as follows:

Antineoplastic Agents—that portion of potentially infectious medical waste containing chemicals that are administered to deter the growth of abnormal cells and/or tumors.

Biomedical Waste Incinerator—any incinerator operated for reducing potentially infectious medical waste generated by health and medical care facilities.

Chemotherapeutic Waste—that portion of potentially infectious medical waste containing chemical substances that are administered in the treatment of diseases, especially cancer, and diseases caused by parasites.

Crematory—any furnace or incinerator used in the process of burning Type IV waste for the purpose of reducing the volume of the waste by removing combustible matter and vaporizing moisture through the application of heat.

Health and Medical Care Facilities—shall include, but not be limited to, hospitals, clinics, dialysis facilities, birthing centers, emergency medical services, physicians' offices, outpatient clinics, nursing homes, extended care facilities, podiatry offices, dental offices and clinics, medical research and diagnostic laboratories, home health care services, mortuaries, blood and plasma centers, blood collection mobile units, and veterinary medical centers.

Infectious Waste—that portion of potentially infectious waste which contains pathogens with sufficient virulence and quantity so that exposure to a susceptible host could result in contracting a disease.

Medical Waste—that portion of potentially infectious waste generated by operation of programs and offices in health and medical care facilities.

Potentially Infectious Medical Waste—a mixture of infectious waste, medical waste, and other waste which may potentially be infectious due to its physical characteristics or by how it was generated in the health care facilities. This includes, but is not limited to, the following types of waste:

a. cultures and stocks of infectious agents from laboratories;

b. pathological waste, including human tissue, organs, body parts, and fluids removed during surgery or autopsy;

c. blood, serum, blood collection bags, tubes, and vials;

d. needles, scalpels, syringes, pipettes, and other sharp objects used in health care or laboratory settings;

e. bandages, diapers, and other disposable materials that have been in contact with infected wounds or contaminated by patients isolated to prevent the spread of infectious diseases; and

f. any other refuse that has been in contact with any potentially infectious medical waste.

PM_{10}—particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by the method in 40 CFR Part 50, Appendix J.

PM_{10} Emissions—finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by the methods specified in 40 CFR Part 52.

Type IV Waste—human and/or animal remains consisting of corpses, carcasses, organs, and solid organic wastes consisting of up to 85 percent moisture and 5 percent incombustible solids.

C. Registration

1. Within 90 days after adoption of these regulations, all facilities operating incinerators designed or operated for the purpose of burning potentially infectious medical waste, shall submit a supplemental incinerator data form (SID-1) to: Louisiana Department of Environmental Quality, Air Quality Division - Permit Section, P.O. Box 82135, Baton Rouge, LA 70884-2135.

2. All facilities operating unpermitted incinerators designed or operated for the purpose of burning potentially infectious medical waste, shall submit an Application for Approval of Emissions and Emissions Inventory Questionnaire with appropriate permitting information on or before October 20, 1994.

D. Incinerator Design Requirements

1. All biomedical waste incinerators (BWIs) shall be multi-chambered units with burners capable of maintaining minimum temperatures of 1500°F in the primary chamber and 1800°F in the secondary chamber. Units burning chemotherapeutic waste, antineoplastic agents, and/or potentially infectious medical waste generated off-site shall require burners capable of maintaining minimum temperatures of 1500°F in the primary chamber and 2000°F in the secondary chamber. Design capacity shall be based on 8500 BTU per pound of waste incinerated. A temperature indicator and/or recorder shall be installed to monitor gas temperatures at the exit of the primary chamber. Internal temperature of the secondary chamber shall be monitored and continuously recorded.

2. All BWIs shall have a minimum retention time of 1.5 seconds for gases in the secondary chamber. Incinerators burning antineoplastic agents, chemotherapeutic waste, and/or potentially infectious medical waste generated off-site shall require a minimum of 2.0 seconds retention time.

3. All BWIs shall be equipped with an interlock that prevents the charge door from opening for 10 minutes after the secondary burner is ignited, or until the secondary chamber exit gases reach 1800°F, whichever occurs first. A visual warning system shall alert the operator when the interlock is bypassed for service or cleaning.

E. Restrictions on Emissions

1. All BWIs designed for less than 500 pounds-per-hour charging rate shall not emit PM_{10} in excess of 0.08 grains per dry standard cubic foot of flue gas corrected to 7 percent oxygen. BWIs designed for 500 pounds-per-hour or greater charging rate shall not emit in excess of 0.04 grains of PM_{10} per dry standard cubic foot of flue gas corrected to 7 percent oxygen.

2. Emission limits for all BWIs shall include:

a. hydrogen chloride (HCl) - no more than four pounds-per-hour, unless controlled through an acid gas scrubber or other control device which achieves a 98 percent reduction of HCl:

i. incinerators designed for 500 pounds-per-hour or greater charging rate shall be equipped with an acid gas control device or shall continuously monitor flue gas to show compliance with HCl emission limits; and

ii. all BWIs which burn waste generated off-site shall be equipped with an acid gas control device of 98 percent efficiency;

b. sulfur dioxide - 100 ppmv (dry basis) at seven percent oxygen or 70 percent reduction through an acid gas control device;

c. carbon monoxide (one hour rolling average) - 100 ppmv (dry basis) at 7 percent oxygen;

d. nitrogen oxide - 250 ppmv (dry basis) at 7 percent oxygen;

e. speciated hydrocarbons and heavy metals emissions must meet the requirements of LAC 33:III.Chapter 51;

f. opacity of stack gases shall not exceed 10 percent; and

g. excess oxygen in flue gas - two percent minimum by volume (dry basis).

3. All BWIs designed for 500 pounds-per-hour or greater charging rate shall have a continuous monitoring and recording system installed for oxygen and carbon monoxide.

4. (Reserved)

5. All BWIs shall be designed with a stack emission point which prevents undesirable levels of air contaminants and which does not adversely impact air quality in the local area. All incinerator stack heights must be approved by the administrative authority.

6. All BWIs with a design charging rate in excess of 250 pounds-per-hour shall conduct emission tests to verify compliance with this Subsection for PM_{10} and HCl. In addition, BWIs with a design charging rate of 500 pounds or more per hour shall conduct emission tests to verify compliance with the standards for the following pollutants using the test methods from 40 CFR Part 60, Appendix A:

a. Method 5 - Determination of Particulate Emissions from Stationary Sources (LAC 33:III.6015);

b. Method 6 - Determination of Sulfur Dioxide Emissions from Stationary Sources (LAC 33:III.6025);

c. Method 7 - Determination of Nitrogen Oxide Emissions from Stationary Sources (LAC 33:III.6033);

d. Method 26 - Determination of Hydrogen Chloride Emissions from Stationary Sources (LAC 33:III.6088); and/or

e. other tests which may be added at pretest meetings.

7. A copy of all monitoring and tests results shall be submitted to the Louisiana Department of Environmental Quality, Air Quality Division, Engineering Section, for review and approval within 45 days of completion of testing.

F. Radioactive Materials. Incineration of radioactive materials shall comply with the requirements of LAC 33:XV.436.

G. Ash Removal and Disposal. The removal, handling, storage, and transportation of ashes from the BWIs shall not allow controllable particulate matter to become airborne in amounts that will cause a public nuisance or cause ambient air quality standards to be violated.

H. Maintenance of Equipment. The BWI, auxiliary equipment, accessories, pollution control devices, and monitoring instruments shall be maintained in proper working order and operated according to manufacturer's instructions at all times that the incinerator is in operation.

I. Restrictions. All batteries and chemotherapeutic waste listed under the Resource Conservation and Recovery Act, 40 CFR 261.33(f), shall be removed from the waste feed stream prior to incineration.

J. Circumvention. No owner or operator subject to the provisions of this Chapter shall build, install, erect, or use any machine, equipment, process, or method, the use of which conceals an emission that would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an emissions standard and the installation of more than one incinerator to avoid coverage by a standard that applies only to incinerators with greater design charging capacities.

K. Prohibited Activities. No owner or operator shall operate any source subject to this standard in violation of the standards after October 20, 1994.

L. Recordkeeping/Reporting. The owner or operator of any BWI shall keep a daily record of the hours the unit was in operation and the amount of waste incinerated. A separate record shall be kept of all chemotherapeutic waste incinerated that is not listed under the Resource Conservation and Recovery Act, 40 CFR 261.33(f). This record shall show the name of the material, date and time incinerated, and amount burned. Records shall be submitted to the Air Quality Compliance Division by March 31 for the previous calendar year.

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

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

Subchapter C. Refuse Incinerators

§2521. Refuse Incinerators

A. Scope. The purpose of this Subchapter is to prevent the operation or construction of refuse incinerators in such a manner as to cause air pollution.

B. Applicability. This Subchapter applies to all incinerators operated or constructed in the state for the purpose of reducing refuse.

C. Determination of Incinerator Maximum Burning Capacity. The burning capacity of a refuse incinerator shall be the manufacturer's or designer's guaranteed maximum rate or such other rate as may be determined by the department in accordance with good engineering practices. In case of conflict, the determination made by the department shall govern.

D. All Incinerators Must be Approved Prior to Installation. All refuse incinerators must be approved by the department prior to installation. Any person planning to install or operate a refuse incinerator must make suitable application to the department. Forms are available from the department.

E. Allowable Emissions from Incinerator. The amount of particulate matter (PM_{10}) emitted by a refuse incinerator shall be determined using the test methods from 40 CFR Part 60, Appendix A: Method 5 - Determination of Particulate Emissions from Stationary Sources (LAC 33:III.6015).

F. Restrictions on Emissions

1. No person shall cause or permit the emissions of PM_{10} from any refuse incinerator (with a capacity less than 250 pounds-per-hour) in excess of 0.10 grains per dry standard cubic foot of dry flue gas corrected to seven percent excess oxygen or 12 percent carbon dioxide. PM_{10} emission limits for larger incinerators are:

Capacity	PM_{10}
250-499 pounds-per-hour	0.08
500-1000 pounds-per-hour	0.06
Over 1000 pounds-per-hour	0.04

2. All refuse incinerators must be multi-chambered or equivalent as determined by the department. All multi-chambered incinerators must be equipped with secondary burners of such a design as to assure a temperature in the secondary chamber of at least 1500°F for at least 0.5 seconds for incinerators with a capacity less than 250 pounds-per-hour. The minimum secondary chamber temperature for larger incinerators is:

Capacity	Temperature
250-499 pounds-per-hour	1500°F for at least 1 second
500-1000 pounds-per-hour	1600°F for at least 1 second
Over 1000 pounds-per-hour	1800°F for at least 1 second

3. All refuse incinerators shall be equipped with an interlock that prevents the charge door from opening for ten minutes after the secondary burner is ignited, or until the secondary chamber exit gases reach 1500°F for incinerators with a capacity less than 500 pounds-per-hour, 1600°F with a capacity 500-1000 pounds-per-hour, and 1800°F for incinerators with a capacity greater than 1000 pounds-per-hour, whichever occurs first. A visual warning system shall alert the operator when the interlock is by-passed for service or cleaning.

4. No person shall burn or cause or permit the burning of refuse in any installation which was designed for the sole

purpose of burning fuel without the authorization of the administrative authority.

5. All refuse incinerators shall be designed with a stack emission point which does not adversely impact the local area air quality. All incinerator stack heights must be approved by the administrative authority.

6. All secondary combustion chambers shall be equipped with a continuous temperature recorder to measure and record the exit flue gas temperature. All refuse incinerators with a capacity greater than 500 pounds-per-hour shall have a continuous monitoring and recording system installed for CO and O_2 concentration in the exit flue gas.

7. All refuse incinerators which burn waste generated off-site shall be equipped with an acid gas control device of 98 percent efficiency, have a continuous monitoring system for CO and O_2, and have a secondary combustion chamber burner capable of maintaining a minimum temperature of 1800°F for at least one second in the secondary chamber.

8. Emission limits for all refuse incinerators shall include:

a. hydrogen chloride (HCl) - no refuse incinerators shall emit hydrogen chloride in excess of four pounds-per-hour, or they shall operate a control device with a minimum efficiency of 98 percent. All incinerators over 500 pounds-per-hour design capacity shall be equipped with a 98 percent efficient HCl control device or shall continuously monitor flue gas to show compliance with HCl emission limits;

b. carbon monoxide - 100 ppmv maximum (one hour rolling average) dry basis at seven percent oxygen;

c. nitrogen dioxide - 250 ppmv maximum dry basis at seven percent oxygen;

d. excess oxygen in flue gas - 2 percent minimum by volume dry basis;

e. opacity of stack gases shall not exceed 10 percent; and

f. sulfur dioxide - 100 ppmv maximum dry basis at 7 percent oxygen or 70 percent control.

9. All refuse incinerators with a design charging rate in excess of 250 pounds-per-hour shall conduct emission tests to verify compliance with this Subsection for PM_{10} and HCl. In addition, all refuse incinerators with a design charging rate of 500 pounds or more per hour shall conduct emission tests to verify compliance with the standards for the following pollutants using the test methods from 40 CFR Part 60, Appendix A:

a. Method 5 - Determination of Particulate Emissions from Stationary Sources (LAC 33:III.6015);

b. Method 6 - Determination of Sulfur Dioxide Emissions from Stationary Sources (LAC 33:III.6025);

c. Method 7 - Determination of Nitrogen Oxide Emissions from Stationary Sources (LAC 33:III.6033);

d. Method 26 - Determination of Hydrogen Chloride Emissions from Stationary Sources (LAC 33:III.6088); and/or

e. other tests which may be added at pretest meetings.

10. A copy of all monitoring and tests results shall be submitted to the Louisiana Department of Environmental Quality, Air Quality Division, Engineering Section, for review and approval within 45 days of completion of testing.

G. Control of Particulate Matter. No person shall cause or permit the handling, use, transport, or storage of any material in a manner which allows or may allow particulate matter, fly ash, etc., to become airborne in amounts that will cause a public nuisance or cause ambient air quality standards to be violated.

H. All Incinerator Equipment to be Kept in Good Working Condition. All equipment, accessories, and appurtenances, (i.e. secondary burners, etc.) of a refuse incinerator installation shall be maintained in proper working condition and shall be operational at all times when the refuse incinerator is in use. (See also LAC 33:III.905 and 915.E)

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

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

James B. Thompson, III
Assistant Secretary

9410#035

RULE

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

Emission Inventory (LAC 33:III.919) (AQ94)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III.919(AQ94).

This rule is needed to clarify the applicability of the requirements of facilities to make an annual emission inventory update. The rule more clearly states that facilities experiencing a significant change in emissions of criteria pollutants over the past year must report their air emissions. A significant change was defined previously and continues in the rule to include a change of five percent or more in emissions or a cessation of all activities and emissions; if neither of these provisions are met, the facility may send a certifying statement only.

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.

* * *

[See Prior Text in A - B.1]

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 required for any facilities subject to SIP regulation if a significant change in emission rates has occurred as defined in Subsection B.2.b and c of this Section;

* * *

[See Prior Text in B.2.b through c]

d. if there are no significant changes in emission rates as defined in Subsection B.2.b and c of this Section, then only the certifying statement is required for annual submittal.

* * *

[See Prior Text in B.3 through F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and 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 19:184 (February 1993), repromulgated LR 19:485 (April 1993), amended LR 19:1418 (November 1993), LR 20: (October 1994).

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

James B. Thompson, III
Assistant Secretary

9410#036

RULE

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

Fugitive Emissions Control for Ozone Nonattainment Areas (LAC 33:III.2122) (AQ84)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III.2122 (AQ84).

The proposed rule supports activities under the CAAA (Clean Air Act Amendments) of 1990 to obtain a 15 percent reduction in VOC (Volatile Organic Compound) emissions in the ozone nonattainment area. The rule specifies fugitive monitoring requirements for process units in the ozone non-attainment area surrounding Baton Rouge; this area includes the six parishes of Ascension, East Baton Rouge, Iberville, Livingston, Point Coupee, and West Baton Rouge. The rule requires monitoring of potential leak sources (valves, pumps, compressors, pressure relief devices, agitators and connector); defines a leak as detection of a specific ppmv (parts per million value) of VOCs; and sets the standards for documentation of the monitoring methods and results.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 21. Control of Emission of Organic Compounds
Subchapter A. General
§2122. Fugitive Emission Control for Ozone Nonattainment Areas

A. Applicability

1. This regulation is applicable to each process unit at petroleum refineries, natural gas processing plants, the synthetic organic chemical manufacturing industry (SOCMI), the methyl tertiary butyl ether (MTBE) manufacturing industry, and the polymer manufacturing industry that contains any of the following components that are intended to operate in VOC service 300 hours or more during the calendar year: pumps, compressors, pressure relief devices, open-ended valves or lines, process drains, valves, agitators, and connectors.

2. Where the provisions of this Section are effective, process units to which this Section applies that are also subject to the provisions of LAC 33:III.2121 will not be required to comply with the provisions of LAC 33:III.2121. Process units that are currently being monitored under LAC 33:III.2121 for fugitives shall be subject to the requirements of that rule until January 1, 1996.

3. Reserved.

4. The requirements of this Section shall be effective starting January 1, 1996.

5. This Section is applicable to sources in areas classified nonattainment for ozone and designated as moderate, severe, serious, or extreme as defined in the Clean Air Act Amendments of 1990 (Public Law 101-549).

6. Applicable facilities as defined in Subsection A.1 of this Section which are subject to New Source Performance Standards, LAC 33:III.3730 to 3749 (Subchapter VV), 4780 to 4783 (Subchapter GGG), 4820 to 4826 (Subchapter KKK), or 5171 (Subchapter V) may become exempt from this Section by:

a. submitting a written notice to the administrative authority* informing them of the facility's request to become exempt from LAC 33:III.2122 and how LAC 33:III.3730 to 3749 (Subchapter VV), 4780 to 4783 (Subchapter GGG), 4820 to 4826 (Subchapter KKK), or 5171 (Subchapter V) will be administered to obtain that exemption;

b. applying LAC 33:III.3730 to 3749 (Subchapter VV), 4780 to 4783 (Subchapter GGG), 4820 to 4826 (Subchapter KKK), or 5171 (Subchapter V) to leak limitations specified in

Subsection C.1 of this Section rather than 10,000 ppm as specified in LAC 33:III.3730 to 3749 (Subchapter VV), 4780 to 4783 (Subchapter GGG), 4820 to 4826 (Subchapter KKK), or 5171 (Subchapter V);

c. including connectors as leak sources monitored and repaired using the restrictions in LAC 33:III.3730 to 3749 (Subchapter VV), 4780 to 4783 (Subchapter GGG), 4820 to 4826 (Subchapter KKK), or 5171 (Subchapter V) which apply to valves; and

d. increasing monitoring frequency only when the leaking sources monitored and repaired using the restrictions in LAC 33:III.3730 to 3749 (Subchapter VV), 4780 to 4783 (Subchapter GGG), 4820 to 4826 (Subchapter KKK), or 5171 (Subchapter V) which apply to valves equal or exceed two percent of the valves monitored at or above 10,000 ppm.

B. Definitions. Terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined below.

Connector—flanged, screwed, or other joined fittings used to connect two pipe lines or a pipe line and a piece of equipment. Welded connections are not connectors.

Good Performance Level—an operating level reached when no more than 2.0 percent of a component in VOC service in a process unit are leaking at the leak rate definition or greater as determined by LAC 33:III.6077 (Reference Method 21, "Determination of Volatile Organic Compound Leaks").

Heavy Liquid Service—equipment that is not in VOC gas/vapor service or is not in VOC light liquid service.

Inaccessible Valve/Connector—a valve/connector that cannot be monitored without elevating the monitoring personnel more than two meters above a support surface.

In Vacuum Service—equipment operating at an internal pressure that is at least 20 inches of water (38 mm of Hg) below ambient pressure.

Light Liquid—a fluid with a vapor pressure greater than 0.3 kPa (0.0435 psia) at 20°C (68°F) or a fluid for which the weight percent evaporation at 150°C exceeds 10 percent as determined by ASTM D86.

Light Liquid Service—equipment in liquid service contacting a fluid greater than 10 percent by weight light liquid.

Liquid Service—equipment which processes, transfers, or contains a VOC or mixture of VOC in the liquid phase.

Process Unit—a process unit that can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

Process Unit Shutdown—a work practice or operational procedure that stops production from a process unit or part of a process unit during which it is technically feasible to clear process material from a process unit or part of a process unit consistent with safety constraints and during which repairs can be effected. An unscheduled work practice or operational procedure that stops production from a process unit or part of a process unit for less than 24 hours is not a process unit shutdown. An unscheduled work practice or operational procedure that would stop production from a process unit or part of a process unit for a shorter period of time than would be required to clear the process unit or part of the process unit of materials and start-up the unit, and would result in greater emissions than delay of repair of leaking components until the next scheduled process unit shutdown, is not a process unit shutdown. The use of spare equipment and technically feasible bypassing of equipment without stopping production are not process unit shutdowns.

Unrepairable Component—unrepairable components are those designated as requiring a process unit shutdown to repair where more emissions would be created by an immediate facility shutdown than allowing the component to leak until the next scheduled shutdown, and the component is listed on a shutdown list for repairs.

C. Fugitive Emission Control Requirements

1. Leak Limitations

a. No component in petroleum refineries, SOCMI, MTBE, and polymer manufacturing industry shall be allowed to leak volatile organic compounds exceeding an instrument reading of 1,000 ppmv or greater for valves, connectors, pressure relief devices, process drains, and open-ended valves and lines; 5,000 ppmv for pumps and compressors; or 10,000 ppmv for agitators as outlined in Subsection D of this Section, when tested by LAC 33:III.6077.

b. No component in natural gas processing plants shall be allowed to leak volatile organic compounds exceeding an instrument reading off of 2,500 ppmv for valves, connectors, pressure relief devices, process drains, and open-ended valves and lines; 5,000 ppmv for pumps and compressors; or 10,000 ppmv for agitators as outlined in Subsection D of this Section, when tested by LAC 33:III.6077.

c. Any regulated component observed leaking by sight, sound, or smell must be repaired according to Subsection C.3 of this Section, regardless of the leak's concentration. This includes flange and connection leaks found per Subsection D.3.b of this Section, pump and compressor seal leaks found during the weekly visual inspections, and any other regulated component found leaking.

2. No valve, except safety pressure relief valves, shall be located at the end of a pipe or line containing volatile organic compounds unless the end of such line is sealed with a second valve, a blind flange, a plug, or a cap. Such sealing devices may be removed only when the line is in use, for example, when a sample is being taken. When the line has been used and is subsequently resealed, the upstream valve shall be closed first, followed by the sealing device.

3. The operator shall make every reasonable effort to repair a leaking component, as described in this Subsection, within 15 days. If the component cannot be isolated or bypassed so as to significantly reduce or eliminate leakage, or if the repair of a component would require a unit shutdown, and if the shutdown would create more emissions than the repair would eliminate, the repair may be delayed to the next scheduled shutdown. The delay of repair shall not be any later than the next scheduled process unit shutdown. An early unit shutdown may be ordered if the total percentage of leaking and unrepairable components are excessive.

4. Percent of leaking components at a process unit shall be determined for a test period as follows:

$$\%\ C_{lvp} = [\ C_{lv}\ ] / [C_{tv}\ ] * 100\% \qquad \text{Eq. 1}$$

where:

% C_{lvp} = percent of a leaking components, where the component is the classification of valves or pumps.

C_{lv} = number of valves or pumps found leaking during the monitoring period.

C_{tv} = total number of valves or pumps monitored during the period.

5. Total percent of leaking and unrepairable components shall be determined as follows:

$$\% \ C_{tlvp} = [\ C_{tlv}\ ] / [\ C_{ttv} + C_{tuvp}\ ] * 100\% \quad \text{Eq. 2}$$

where:

% C_{tlvp} = total percent of leaking and unrepairable valves or pumps.

C_{tlv} = number of valves or pumps found leaking or defined as unrepairable.

C_{ttv} = total number of valves or pumps tested during the period.

C_{tuvp} = total number of valves or pumps which were defined as unrepairable.

D. Monitoring Requirements. The monitoring of the affected components shall be performed by the following schedule using the method described in Subsection C of this Section or one of the alternate monitoring programs in Subsection E of this Section.

1. Petroleum Refineries, SOCMI, MTBE, and Polymer Manufacturing Industry

a. Monitor with a leak detection device one time per year (annually) the following items:

i. process drains; and

ii. open-ended valves and lines.

b. Monitor with a leak detection device four times per year (quarterly) the following items:

i. compressor seals;

ii. pressure relief valves in gas service;

iii. valves in light liquid service;

iv. pumps in light liquid service; and

v. valves in gas service.

c. Monitor pump seals visually 52 times a year (weekly).

d. Inspect weekly, by visual, audible, and olfactory means, all flanges and measure the emissions with a hydrogen gas analyzer from any component within five days after a potential leak is detected by sight, sound, or smell.

e. Records of the visual, audible, and olfactory inspections of connectors are not required unless a leak is detected.

2. Natural Gas Processing Plants

a. Monitor pump seals and compressor seals visually 52 times a year (weekly).

b. Monitor with a leak detection device four times a year (quarterly) the following items:

i. pumps, pump and compressor seals;

ii. valves; and

iii. pressure relief valves in gas service.

3. Facilities listed in Subsection D.1 and 2 of this Section

a. Monitor with a leak detection device any pressure relief valve within 24 hours after it has vented to the atmosphere. (For natural gas processing plants an immediate visual evaluation will be made.)

b. Monitor immediately with a leak detection device any component that appears to be leaking on the basis of sight, smell, or sound. In lieu of monitoring, the operator may elect to implement actions as specified in Subsection C of this Section.

c. Inaccessible valves shall be monitored on an annual basis at a minimum.

d. Unsafe-to-monitor valves and connectors shall be monitored when conditions would allow these valves and connectors to be monitored safely (e.g., during shutdown).

4. Exemptions. Monitoring is not required on the following:

a. components subject to Subsection D.1 of this Section (petroleum refineries, SOCMI, MTBE, and polymer manufacturing industry) which contact a process fluid that contains less than 10 percent VOC by volume or components subject to Subsection D.2 of this Section (natural gas processing plants) which contact a process fluid that contains less than 1.0 percent VOC by weight;

b. components in the petroleum refineries, SOCMI, MTBE, and polymer manufacturing industry that contact only a process liquid containing a VOC having a true vapor pressure equal to or less than 0.3 kPa (0.0435 psia) at 20°C (68°F).

c. pressure relief valves in liquid service at SOCMI and polymer manufacturing industry, except after venting;

d. pressure relief devices, pump seals or packing, and compressor seals or packing where leaks are vented to either a flare header or vapor recovery device;

e. equipment in vacuum service;

f. natural gas processing plants with less than 40 million cubic feet per day (mmcfd) capacity that do not fractionate natural gas liquids;

g. components contacting only organic compounds exempted under LAC 33:III.2117 or mixtures of same with water;

h. pumps and compressors with double mechanical seal;

i. research and development pilot facilities and small facilities with less than 100 valves in gas or liquid service;

j. insulated connectors;

k. components that have been placed on a shutdown list for repairs are exempt from further monitoring until a repair has been attempted.

5. Alternate Monitoring Program. Any facility that already has in place a fugitive emission monitoring program which controls to a higher degree than required under this Section shall be exempted from this Section upon submittal of a description of the program to the administrative authority* and approval thereof.

E. Alternate Control Techniques. The monitoring schedule in Subsection D of this Section may be modified as follows:

1. Alternate Standards for Valves subject to Subsection D.1.b or D.2.6 of this Section - Skip Period Leak Detection and Repair.

a. An owner or operator may elect to comply with one of the alternative work practices specified in Subsection E.1.b,

c, g or 2 of this Section. However, the administrative authority* must be notified in writing before implementing one of the alternative work practices.

b. After two consecutive quarterly leak detection periods with the percent of leaking valves (Eq. 1) equal to or less than 2.0, an owner or operator may begin to skip one of the quarterly leak detection periods for the valves in gas/vapor and light liquid service.

c. After five consecutive quarterly leak detection periods with the percent of leaking valves (Eq. 1) equal to or less than 2.0, an owner or operator may begin to skip three of the quarterly leak detection periods for the valves in gas/vapor and light liquid service.

d. If the percent of leaking valves (Eq. 1) is greater than 2.0, or the total percent of leaking and unrepairable valves (Eq. 2) is greater than 4.0, the owner or operator shall comply with the requirements as described in Subsection D of this Section but subsequently can again elect to use this Subsection when the requirements are met.

e. The percent of leaking valves (Eq. 1) shall be determined by dividing the sum of components found leaking during the current monitoring period by the total number of valves which were tested and multiplying the results by 100 percent.

f. An owner or operator must keep a record of the percent of valves found leaking during each leak detection period and the total percentage of leaking and unrepairable valves.

g. Existing equipment that has been monitored under LAC 33:III.2121 for fugitives at the leak definition of 10,000 ppmv can initially elect to use this alternate standard if the unit has data documented by January 1, 1995, with the department that indicates the percent of leaking valves (Eq. 1) is less than or equal to 2.0 percent leak rate at 10,000 ppmv for the required time period.

2. Alternative Standards for Valves - Increased Monitoring Frequency. If the percent of leaking valves (Eq. 1) in a test period is greater than 2.0, or the total percent of leaking and unrepairable valves (Eq. 2) is greater than 4.0, then an increase in the frequency of monitoring may be required by the administrative authority*.

3. Alternate Standard for Batch Processes. As an alternate to complying with the requirements in Subsection D of this Section an owner or operator of a batch process in VOC service may elect to comply with one of the following alternative work practices. The batch product-process equipment shall be tested with a gas using the procedures specified in Subsection E.3.a of this Section or with a liquid as specified in Subsection E.3.b of this Section.

a. The following procedures shall be used to pressure test batch product-process equipment using a gas (e.g., air or nitrogen) to demonstrate compliance.

i. The batch product-process equipment train shall be pressurized with a gas to the operating pressure of the equipment. The equipment shall not be tested at a pressure greater than the pressure setting of the lowest relief valve setting.

ii. Once the test pressure is obtained, the gas source shall be shut off.

iii. The test shall continue for not less than 15 minutes unless it can be determined in a shorter period of time that the allowable rate of pressure drop was exceeded. The pressure in the batch product-process equipment shall be measured after the gas source is shut off and at the end of the test period. The rate of change in pressure in the batch product-process equipment shall be calculated using the following equation:

$$\frac{P}{t} = \frac{(P_f - P_i)}{(t_f - t_i)} \qquad \text{Eq. 5}$$

where:

P/t = change in pressure, psia/hr.

P_f = final pressure, psia.

P_i = initial pressure, psia.

$t_f - t_i$ = elapsed time, hours.

iv. The pressure shall be measured using a pressure measurement device (gauge, manometer, or equivalent) which has a precision of ± 2.5 millimeters (± 0.05 psig) of mercury in the range of test pressure and is capable of measuring pressures up to the relief set pressure of the pressure relief device.

v. A leak is detected if the rate of change in pressure is greater than 6.9 kPa (1 psig) in one hour or if there is visible, audible, or olfactory evidence of fluid loss.

b. The following procedures shall be used to pressure test batch product-process equipment using a liquid to demonstrate compliance.

i. The batch product-process equipment train, or section of the train, shall be filled with the test liquid (e.g., water, alcohol). Once the equipment is filled, the liquid source shall be shut off.

ii. The test shall be conducted for a period of at least 60 minutes, unless it can be determined in a shorter period of time that the test is a failure.

iii. Each seal in the equipment being tested shall be inspected for indications of liquid dripping or other indications of fluid loss. If there are any indications of liquids dripping or of fluid loss, a leak is detected.

iv. If a leak is detected, it shall be repaired and the batch product-process equipment shall be retested before VOCs are fed to the equipment.

v. If the batch product-process equipment fails the retest or the second of two consecutive pressure tests, it shall be repaired as soon as practicable, but not later than 30 calendar days after the equipment is placed in VOC service.

F. Recordkeeping

1. When a component which has a leak that cannot be repaired, as described in Subsection C of this Section, is located, a weatherproof and readily visible tag bearing an identification number and the date the leak is located shall be affixed to the leaking component. After the leak has been repaired the tag identifying the component as a leaking component may be removed.

2. A survey log shall be maintained by the operator and shall include the following:

a. the name of the process unit where the leaking component is located;

b. the name of the leaking component;

c. the stream identification at the leak;

d. the identification number from the tag required by Subsection F.1 of this Section;

e. the date the leak was located;

f. the date maintenance was performed;

g. the date(s) the component was rechecked after maintenance, as well as the instrument reading(s) upon recheck (For natural gas processing plants the soap bubble test commonly performed in the industry is satisfactory.);

h. a record of leak detection device calibration;

i. a list of leaks not repaired until turnaround;

j. a list of total number of items checked versus the total found leaking.

3. The operator shall retain the survey log for two years after the latter date specified in Subsection F.2 of this Section and make said log available to the administrative authority* upon request.

G. Reporting Requirements. The operator of the affected facility shall, after each quarterly monitoring has been performed, submit a report listing all leaks that were located but not repaired within the 15-day limit along with a demonstration of achieving good performance level. These reports are due by the last day of January, April, July, and October. For units complying with the alternate control techniques a report shall be submitted by the last day of the month following the quarter that monitoring was performed. Such reports shall include the following:

1. the name of the unit where the leaking component is located and the date of last unit shutdown;

2. the name of the leaking component;

3. the stream identification at the leak;

4. the date the leak was located;

5. the date maintenance was attempted;

6. the date the leak will be repaired if the component is awaiting a shutdown;

7. the reason repairs failed or were postponed;

8. the list of items awaiting turnaround for repair;

9. the number of items checked versus the number found leaking;

10. the percent of components leaking for the test period;

11. the total percent of leakers;

12. an explanation of any random sampling method used to ensure periodic testing of connectors; and

13. a signed statement attesting to the fact that all other monitoring has been performed as required by the regulations.

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

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

James B. Thompson, III
Assistant Secretary

9410#037

RULE

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

Glycol Dehydrators
(LAC 33:III.2116) (AQ96)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III.2116, (AQ96).

The rule requires smaller glycol dehydrators, those not subject to LAC 33:III.2115 or Chapter 51, to install devices to control VOCs and to monitor the still column temperature. Non-Part 70 sources will have up to two years to come into compliance with this proposed rule. Sources requiring a Part 70 permit will have one year to come into compliance.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 21. Control of Emission of Organic Compounds
Subchapter A. General
§2116. Glycol Dehydrators

A. Applicability. The provisions of this rule shall apply to the owner or operator of any glycol dehydrator that:

1. is not required to install controls according to LAC:33.III.Chapter 51; or

2. is not required to install controls according to LAC:33.III.2115.

B. Requirements

1. Any existing glycol dehydrator must annually achieve an average final exhaust temperature less than 110°F or demonstrate to the administrative authority a 70 percent reduction of still-column emissions using methods found in Subsection D of this Section.

2. Any new glycol dehydrator, constructed after the date of promulgation of this rule, and not subject to LAC:33.III.2115 or Chapter 51, shall ensure an 85 percent reduction of still-column emissions using approved methods found in Subsection D of this Section.

C. Exemptions. A glycol dehydrator is exempt from the requirements of this Section if any of the following conditions are met:

1. the owner can demonstrate to the administrative authority that the glycol dehydrator operates fewer than 200 hours per year; or

2. the owner can demonstrate to the administrative authority that the glycol dehydrator does not emit total VOC emissions in excess of nine tons per year.

D. Test Methods. The emissions from uncontrolled glycol dehydrators affected by Subsection A of this Section shall be determined using one of the following methods:

1. rich/lean glycol mass balance using pressurized sample;

2. total capture stack condensation;

3. partial stack condensation;

4. conventional stack measurements using LAC 33:III:6071 and 6085 (Method 18 and 25); or

5. alternative methods of testing as approved by the administrative authority.

E. Compliance Schedule. All facilities affected by this Section shall be in compliance as soon as practicable, but in no event later than two years after promulgation of this rule, except those facilities required to submit a Part 70 permit. Facilities required to submit a Part 70 permit shall be in compliance within one year of date of promulgation of this rule.

F. Recordkeeping. The owner or operator of any facility subject to this rule shall maintain the following information on the premises, or an alternative location approved by the administrative authority for at least two years and shall make the following information available to representatives of the Louisiana Department of Environmental Quality upon request:

1. record of final exhaust temperature and time observed recorded twice a week on different days;

2. record of total hours of operation on an annual basis if claiming an exemption under Subsection C.1 of this Section; and

3. record of actual production per day and glycol circulation rate if claiming an exemption under Subsection C.2 of this Section.

G. Reporting Requirements

1. The owner or operator of a facility shall submit to the administrative authority a permit application after installation of controls unless exempt from permitting pursuant to LAC 33:III.Chapter 5.

2. If no permit is required pursuant to LAC 33:III.Chapter 5, the owner or operator of a facility shall submit to the administrative authority a new or updated emission inventory questionnaire after installation of controls.

3. The owner or operator of a facility shall submit to the administrative authority by March 31 each year (or other date as requested by the administrative authority) an annual report containing the following information:

a. the annual average final exhaust temperature; and

b. a list of all temperature exceedances greater than or equal to 120°F, the date of each temperature exceedance, and a brief explanation describing the circumstances of the temperature exceedance.

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

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

James B. Thompson, III
Assistant Secretary

9410#033

RULE

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

Performance Standards for Crematories
(LAC 33:III.2531) (AQ90)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.2531 (AQ90).

This rule establishes the following standards of performance for crematories: (1) definition of waste types allowed to be incinerated in crematories; (2) compliance schedule for new, modified, and existing facilities; (3) emission limits for particulate matter and carbon monoxide; (4) equipment operating parameters; (5) required control equipment; (6) testing and recordkeeping requirements; (7) operator training requirements.

LAC 33:III.5191 regulated crematories as Biomedical Waste Incinerators (BWIs). This was not appropriate because of the nature of the material incinerated in a crematory. BWIs such as those found at hospitals burn a variety of materials including syringes, gauze, various plastics and metals, and paper in addition to pathological wastes. Incinerating these materials results in emissions of chlorides, metals, carbon monoxide, particulate matter, nitrogen oxides, and other trace gases. Crematories, however, only incinerate pathological remains resulting in emissions of mostly particulate matter and carbon monoxide. This same reasoning was used in the EPA's decision to reclassify crematories from medical waste incinerators (MWIs) to Other Solid Waste Incinerators (OSWIs) according to the *Federal Register* of November 2, 1993. When §5191 was edited and became Chapter 25, crematories were removed from the regulation for the above-stated reason. This regulation is necessary in order to control crematory emissions according to R.S. 30:2054.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 25. Miscellaneous Incineration Rules
Subchapter D. Crematories
§2531. Standards of Performance for Crematories

A. The provisions of this Subchapter apply to all new, modified, reconstructed, and existing crematories used in the disposal of Type IV wastes and their appropriate containers.

B. Definitions. Terms used in this Section are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined below as follows:

Appropriate Containers—containers may hold up to 0.5 percent chlorinated plastics as demonstrated by the manufacturer's data sheet. Plastic bags used as containers for animal remains shall be nonchlorinated and no less than three mils thick.

Crematory—any furnace or incinerator used in the process of burning Type IV waste for the purpose of reducing the

volume of the waste by removing combustible matter and vaporizing of moisture through the application of heat.

Reconstruction—replacing, repairing, or upgrading equipment where the fixed capital cost of new components exceeds 50 percent of the fixed capital cost of a comparable entirely new source. Any final decision as to whether reconstruction has occurred must be made in accordance with the provisions of LAC 33:III.3129.F.1 - 3.

Type IV Waste—human and animal remains consisting of carcasses, organs, and solid organic wastes comprising up to 85 percent moisture and five percent incombustible solids.

C. Wastes to be Incinerated

1. Animal Crematories. Facilities used for the incineration of animal remains shall incinerate only animal remains, their appropriate containers and, if applicable, bedding. Facilities subject to this regulation shall not incinerate dead animals which were used for biomedical or commercial experimentation. The bodies of animals used for these purposes shall only be incinerated in a biomedical waste incinerator.

2. Human Crematories. Facilities used for the incineration of human remains shall incinerate only human remains with their appropriate containers. Bodies may be clothed.

D. Compliance Schedule

1. Any new, modified, or reconstructed facility regulated under Subsection A of this Section for which a complete application for a permit to construct was received after promulgation of this regulation shall comply with all of the requirements of this Subchapter before operation may commence.

2. Any facility regulated under Subsection A of this Section which was constructed before promulgation of this regulation must comply with all of the requirements of this Subchapter upon promulgation of this regulation with the following exceptions:

a. operating parameter requirements of Subsection F of this Section shall be complied with no later than one year after promulgation of this regulation;

b. control equipment requirements of Subsection G of this Section shall be complied with no later than one year after promulgation of this regulation;

c. incinerator physical parameter requirements of Subsection H of this Section shall be complied with no later than two years after promulgation of this regulation; and

d. operator training requirements of Subsection I of this Section shall be complied with no later than 18 months after promulgation of this regulation.

E. Emission Limitations

1. Particulate matter (PM_{10}) emissions shall not exceed 0.08 grains per dry standard cubic foot of flue gas, corrected to seven percent O_2.

2. Carbon monoxide (CO) emissions shall not exceed 100 ppm_v, dry basis, corrected to 7 percent O_2.

F. Operating Parameters

1. The incinerator shall operate with visible emissions not to exceed five percent average opacity, except that visible emissions not exceeding 20 percent average opacity are allowed for not more than one three-minute period in any 60 consecutive minutes.

2. The incinerator shall operate with no objectionable odors.

3. Incineration or ignition of waste shall not begin until the secondary (or last) combustion chamber temperature requirement is attained. All air pollution control and continuous emission monitoring equipment shall be operational and functioning properly prior to the incineration or ignition of waste and until all the wastes are incinerated. During shutdowns, the secondary (or last) combustion chamber temperature shall be maintained using auxiliary burners until the wastes are completely combusted.

4. A manufacturer's nameplate with the following information must be visible on the incinerator:

a. model number;

b. maximum design feed rate;

c. design operating temperatures for the primary and secondary chambers; and

d. design retention time in the secondary chamber.

5. All equipment, accessories, and appurtenances, (i.e., secondary burners, control equipment, etc.) of a crematory incinerator shall be maintained in proper working condition and shall be operational at all times when the crematory is in use.

6. The crematory shall not be operated unless it is operated by an operator who has satisfactorily completed the training required by Subsection I of this Section.

G. Control Equipment

1. Each facility shall install, operate, and maintain continuous monitors to record temperature at the point where the 1.0 second gas residence time is obtained in the secondary chamber combustion zone in accordance with the manufacturer's instructions.

2. The incinerator shall be equipped with an interlock which prevents the primary burners from igniting when the secondary chamber temperature is below the required operating limits.

H. Incinerator Physical Parameters

1. Any facility regulated under Subsection A of this Section which commences construction, modification, or reconstruction after promulgation of this regulation shall provide design calculations to confirm a sufficient volume in the secondary (or last) chamber combustion zone to provide for at least a 1.0 second gas residence time at 1800°F. Primary chamber and stack shall not be used in calculating this residence time. The actual operating temperature of the secondary (or last) chamber combustion zone will be not less than 1600°F throughout the combustion process. The primary chamber shall not be charged unless the secondary (or last) chamber combustion zone temperature is equal to or greater than 1600°F.

2. Any facility regulated under Subsection A of this Section which was constructed before promulgation of this regulation shall provide design calculations to confirm a sufficient volume in the secondary (or last) chamber combustion zone to provide for at least a 1.0 second gas residence time at 1600°F. Primary chamber and stack shall not be used in calculating this residence time. The actual

operating temperature of the secondary (or last) chamber combustion zone will be not less than 1400°F throughout the combustion process. The primary chamber shall not be charged unless the secondary (or last) chamber combustion zone temperature is equal to or greater than 1400°F.

I. Operator Training

1. Any operators of crematories shall be trained by the equipment manufacturer's representatives or an equivalent state-approved organization. The training shall provide:

a. a basic understanding of the principles of the combustion process, instrumentation, and control equipment;

b. instruction on the operation and maintenance of the incinerator; and

c. an increase in awareness of regulatory requirements and safety concerns.

2. Training programs shall be a minimum of eight hours instruction and shall provide (at a minimum) hands-on experience involving:

a. start-up;

b. operation of at least one full incineration cycle;

c. shut-down of equipment; and

d. one full cycle of preventative maintenance actions.

3. The content of the training program shall be submitted to the department for approval.

4. For each person who successfully completes training, a certificate or other proof of training shall be required.

J. Recordkeeping and Reporting

1. The facility owner/operator shall maintain the following records on the facility premises at all times, and present them to an authorized representative of the department upon request:

a. application approval records and permit to construct/operate;

b. all other necessary permits and authorizations from local and/or other state regulatory agencies;

c. equipment maintenance records;

d. operator training certificates;

e. copies of all test results;

f. daily record of the number of hours of operation; and

g. all records of upset conditions with time and duration of upset noted.

2. A copy of all test results shall be submitted to the Louisiana Department of Environmental Quality/Air Quality Division for review and approval within 45 days of completion of testing.

3. A copy of all operator training certificates or other proof of training shall be submitted to the department within 30 days of successfully completing the training.

K. Testing

1. All facilities shall conduct a visual emissions test initially upon start-up and once every five years to verify compliance with Subsection F.1 of this Section. Testing shall comply with LAC 33:III.6047 (Method 9—Visual Determination of the Opacity of Emissions from Stationary Sources).

2. All crematories with a design charge rate greater than 500 pounds per hour shall conduct emissions testing within 180 days of initial start-up to verify compliance with Subsection E.1-2 and F.1 of this Section using the following test methods:

a. LAC 33:III.6015 (Method 5—Determination of Particulate Emissions from Stationary Sources);

b. 40 CFR 60 (Method 10—Determination of Carbon Monoxide Emissions from Stationary Sources);

c. LAC 33:III.6047 (Method 9—Visual Determination of the Opacity of Emissions from Stationary Sources); and

d. other tests which may be added at pretest meetings.

3. The owner/operator shall provide the department at least 30 days prior notice of any emission test to afford the department the opportunity to conduct a pretest conference and to have an observer present. The department has the authority to invalidate any testing where such notice is not provided.

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

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

James B. Thompson, III
Assistant Secretary

9410#038

RULE

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

HSWA I SOG Revisions (LAC 33:V.Chapters 1-43)
(HW40L)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste Division regulations, LAC 33:V.Chapters 1-43 (HW40L).

This rule is being submitted in order to bring state rules into conformity with federal rules, as well as clarify existing rules to obtain authorization by the EPA. Provisions which are more stringent (LAC 33:V.Chapter 39) are presently in place and are amended for clarification purposes. Two provisions presently equivalent to federal rules are amended as more stringent provisions. LAC 33:V.1109.E.8-9 and 1307.I contradict other state provisions currently being enforced and therefore are being deleted. There will be no costs or savings to the state associated with this proposal.

This proposed regulation is available for inspection at the Office of the State Register, 1051 North Third Street, Fifth Floor, Baton Rouge, LA 70802 and at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road

West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III
Assistant Secretary

9410#034

RULE

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

Administrator-in-Training Time Limitation
(LAC 46:XLIX.711)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Nursing Facility Administrators hereby amends rules and regulations relative to licensing and regulating nursing facility administrators. This is a technical change only, which clarifies present rule.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLIX. Board of Examiners of Nursing Facility Administrators
Chapter 7. Administrator-in-Training (AIT)
§711. Time Limitation

* * *

Failure to begin the six-month AIT within one year of the date an applicant passes the licensing examination results in loss of all accomplishments and fees, unless otherwise authorized by the board. An applicant completing his AIT program before taking his examinations must take the first examinations offered following completion of the AIT, unless otherwise authorized by the board.

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

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 9:62 (February 1983), LR 10:499 (July 1984), LR 12:511 (August 1986), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners for Nursing Home Administrators, LR 18:181 (February 1992), amended LR 20: (October 1994).

Kemp Wright
Executive Director

9410#022

RULE

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

License Form (LAC 46:XLIX.1101)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Nursing Facility Administrators hereby amends rules and regulations relative to licensing and regulating nursing facility administrators.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLIX. Board of Examiners of Nursing Facility Administrators
Chapter 11. Licenses
§1101. License Form

A. ...

1. Upon completion of his AIT program an applicant who has passed his examinations shall remit the final report and the Certificate of Completion immediately. He shall complete all other requirements and be licensed within 35 days of completion of the AIT, unless otherwise authorized by the board.

2. An applicant who completes his AIT program before passing the examinations shall remit the final report and Certificate of Completion immediately, and shall undergo any required oral examination as scheduled by the board. Within 10 working days after receiving notice he has passed his examinations, he shall remit his Initial Registration form with fees, unless otherwise authorized by the board.

B. Any license issued by the board shall be under the signature of the chairman and the executive director of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, repealed and promulgated by the Department of Health and Hospitals, Board of Examiners for Nursing Home Administrators, LR 18:181 (February 1992), amended LR 20: (October 1994).

Kemp Wright
Executive Director

9410#023

RULE

Department of Health and Hospitals
Board of Massage Therapy

Operating Rules (LAC 46:XLIV.Chapters 1-63)

(Editor's Note: The following final rules, referenced on page 1002 of the September, 1994 *Louisiana Register*, incorrectly promulgated the Board of Massage Therapy's rules under LAC Title 46:XLV. These rules should have been classified under LAC Title 46:XLIV.)

The Department of Health and Hospitals, Board of Massage Therapy, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby adopts rules relating to the practice of massage therapy.

The full text of the rules may be viewed at the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA. Please reference document 9409#058 when requesting these rules.

Mary L. Donker
Chair

9410#001

RULE

Department of Health and Hospitals
Board of Medical Examiners

Illegal Payments; Required Disclosures of Financial Interests (LAC 46:XLV.Chapter 42)

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1744, R.S. 37:1745, and 37:1270(B)(6), and in accordance with applicable provisions of the Administrative Procedure Act, has adopted rules implementing, interpreting and providing for enforcement of the provisions of Act 657 of 1993, requiring written disclosure of a physician's financial interest in another health care provider prior to referring a patient to such health care provider, and of Act 827 of 1993, prohibiting certain payments in return for the referral or solicitation of patients by physicians and other health care providers. The rule amendments were proposed for adoption by notice of intent in the *Louisiana Register*, April 20, 1994. In consideration of public comments on the rules, the board has made a single technical amendment to a definition appearing at §4203.A.12 of the proposed rules. The text of the final rules, as adopted by the board is set forth below:

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 3. Practice
Chapter 42. Illegal Payments; Required Disclosures of Financial Interests

§4201. Scope and Purpose of Chapter

A. Scope of Chapter. The rules of this Chapter interpret, implement and provide for the enforcement of R.S. 37:1744 and R.S. 37:1745, requiring disclosure of a physician's financial interest in another health care provider to whom or to which the physician refers a patient and prohibiting certain payments in return for referring or soliciting patients.

B. Declaration of Purpose; Interpretation and Application. Physicians owe a fiduciary duty to patients to exercise their professional judgment in the best interests of their patients in providing, furnishing, prescribing, recommending, or referring patients for health care items and services, without regard to personal financial recompense. The purpose of these rules and the laws they implement is to prevent payments by or to a physician as a financial incentive for the referral of patients to a physician or other health care provider for diagnostic or therapeutic services or items. These rules shall be interpreted, construed and applied so as to give effect to such purposes and intent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744, R.S. 37:1745 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (October 1994).

§4203. Definitions and Construction

A. Definitions. As used in this Chapter:

Board—the Louisiana State Board of Medical Examiners.

Financial Interest— a significant ownership or investment interest established through debt, equity or other means and held, directly or indirectly, by a physician or a member of a physician's immediate family, or any form of direct or indirect remuneration for referral.

Group Practice—a group of two or more physicians legally organized as a general partnership, registered limited liability partnership, professional medical corporation, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar organization or association:

a. in which each physician who is a member of the group provides substantially the full range of services which the physician routinely provides, including medical or podiatric care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment and personnel;

b. for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed under a billing number assigned to the group and amounts so received are treated as receipts of the group;

c. in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined;

d. in which no physician who is a member of the group directly or indirectly receives compensation based on the volume or value of referrals by the physician, except payment of a share of the overall profits of the group, which may include a productivity bonus based on services personally performed or services incident to such personally performed services, so long as the share of profits or bonus is not determined in any manner which is directly related to the volume or value of referrals by such physician;

e. in which members of the group personally conduct no less than 75 percent of the physician-patient encounters of the group practice; and

f. in the case of a faculty practice plan associated with a hospital, institution of higher education, or medical school with an approved medical residency training program in which physician members may provide a variety of different specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, solely with respect to services provided within such faculty practice plan.

Health Care Item—any substance, product, device, equipment, supplies or other tangible good or article which is or may be used or useful in the provision of health care.

Health Care Provider—any person licensed by a department, board, commission or other agency of the state of Louisiana to provide, or which does in fact provide, preventive, diagnostic, or therapeutic health care services or items.

Immediate Family—as respects a physician, the physician's spouse, children, parents and siblings.

Investment Interest—a security issued by an entity, including, without limitation, shares in a corporation, interests in or units of a partnership, bonds, debentures, notes, or other debt instruments.

Payment—the tender, transfer, distribution, exchange or provision of money, goods, services, or anything of economic value.

Person—and includes a natural person or a partnership, corporation, organization, association, facility, institution, or any governmental subdivision, department, board, commission or other entity.

Physician—and includes a doctor or medicine or a doctor of podiatric medicine.

Referral—any direction, recommendation or suggestion given by health care provider to a patient, directly or indirectly, which is likely to determine, control or influence the patient's choice of another health care provider for the provision of health care services or items.

Remuneration for Referral—any arrangement or scheme, involving any remuneration, directly or indirectly, in cash or in kind, between a physician, or an immediate family member of such physician, and another health care provider which is intended to induce referrals by the physician to the health care provider or by the health care provider to the physician, other than any amount paid by an employer to an employee who has a bona fide employment relationship with the employer, for employment in the furnishing of any health care item or service.

B. Construction. Masculine terms wheresoever used in this Chapter shall be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744, R.S. 37:1745 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (October 1994).

Subchapter A. Illegal Payments

§4205. Prohibition of Payments for Referrals

A. A physician shall not knowingly and willfully make or offer to make any payment, directly or indirectly, overtly or covertly, in cash or in kind, to induce another person to refer an individual to the physician for the furnishing or arranging for the furnishing of any health care item or service.

B. A physician shall not knowingly and willfully solicit, receive or accept any payment, directly or indirectly, overtly or covertly, in cash or in kind, in return for referring a patient to a health care provider for the furnishing or arranging for the furnishing of any health care item or service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1745 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (October 1994).

§4207. Exceptions

A. Proportionate Return on Investment. Payments or distributions by an entity representing a direct return on investment based upon a percentage of ownership shall not be deemed a payment prohibited by R.S. 37:1745(B) or by §4205 of these rules, provided that:

1. the amount of payment to an investor in return for the investment interest is directly proportional to the amount or value of the capital investment (including the fair market value of any pre-operational services rendered) of that investor;

2. the terms on which an investment interest was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must be no different from the terms offered to other investors;

3. the terms on which an investment interest was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must not be related to the previous or expected volume of referrals, items or services furnished, or the amount of business otherwise generated from that investor to the entity;

4. there is no requirement that an investor make referrals to, be in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity as a condition for becoming or remaining an investor;

5. the entity or any investor does not market or furnish the entity's items or services to investors differently than to non-investors; and

6. the entity does not loan funds to or guarantee a loan for an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity if the investor uses any part of such loan to obtain the investment interest.

B. General Exceptions. Any payment, remuneration, practice or arrangement which is not prohibited by or unlawful under §1128B(b) of the Federal Social Security Act (Act), 42 U.S.C. §1320a-7b(b), as amended, with respect to health care items or services for which payment may be made under Title XVIII or Title XIX of the Act, including those payments and practices sanctioned by the Secretary of the United States Department of Health and Human Services, through the Office of Inspector General, pursuant to §1128B(b)(3)(E) of the Act, through regulations promulgated at 42 C.F.R. §1001.952, as the same may hereafter be amended, shall not be deemed a payment prohibited by R.S. 37:1745(B) or by §4205 of these rules with respect to health care items or services for which payment may be made by any patient or private or governmental payor.

AUTHORITY NOTE: Promulgated in accordance with R.S.

37:1745 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (October 1994).

§4209. Effect of Violation

Any violation of or failure of compliance with the prohibitions and provision of §4205 of this Chapter shall be deemed a violation of the Medical Practice Act, R.S. 37:1285 or of the Podiatry Practice Act, R.S. 37:624, as applicable, providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1745 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (October 1994).

Subchapter B. Disclosure of Financial Interests in Third-Party Health Care Providers

§4211. Required Disclosure of Financial Interest

A. Mandatory Disclosure. A physician shall not make any referral of a patient outside the physician's group practice for the provision of health care items or services by another health care provider in which the referring physician has a financial interest (as defined by §4203.A.3 and Subsection B of this Section), unless, in advance of any such referral, the referring physician discloses to the patient, in accordance with §4215 of this Chapter, the existence and nature of such financial interest.

B. Special Definition: Significant Financial Interest. As to a physician, an ownership or investment interest shall be considered "significant," within the meaning of §4211.A, if such interest satisfies any of the following tests:

1. Such interest, in dollar amount or value, represents five percent or more of the gross assets of the health care provider in which such interest is held.

2. Such interest represents five percent or more of the voting securities of the health care provider in which such interest is held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (October 1994).

§4213. Prohibited Arrangements

Any arrangement or scheme, including cross-referral arrangements, which a physician knows or should know has a principal purpose of ensuring or inducing referrals by the physician to another health care provider, which, if made directly by the physician would be a violation of §4211, shall constitute a violation of §4211.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (October 1994).

§4215. Form of Disclosure

A. Required Contents. The disclosure required by §4211 of this Chapter shall be made in writing, shall be furnished to the patient, or the patient's authorized representative, prior to or at the time of making the referral, and shall include:

1. the physician's name, address and telephone number;

2. the name and address of the health care provider to whom the patient is being referred by the physician;

3. the nature of the items or services which the patient is to receive from the health care provider to which the patient is being referred; and

4. the existence and nature of the physician's financial interest in the health care provider to which the patient is being referred.

B. Permissible Contents. The form of disclosure required by §4211 of this Chapter may include a signed acknowledgement by the patient or the patient's authorized representative that the required disclosure has been given.

C. Approved Form. Notice to a patient given substantially in the form of Disclosure of Financial Interest prescribed in the Appendix to these rules shall be presumptively deemed to satisfy the disclosure requirements of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (October 1994).

§4217. Effect of Violation; Sanctions

A. Effect of Violation. Any violation of or failure of compliance with the prohibitions and provision of §4211 of this Chapter shall be deemed a violation of the Medical Practice Act, R.S. 37:1285 or of the Podiatry Practice Act, R.S. 37:624, as applicable, providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a physician culpable of such violation.

B. Administrative Sanctions. In addition to the sanctions provided for by §4217, upon proof of violation of §4211 by a physician, the board may order that all or any portion of any amounts paid by a patient, and/or by any third-party payor on behalf of a patient, for health care items or services furnished upon a referral by the physician in violation of §4211, be refunded by the physician to such patient and/or third-party payor, together with legal interest on such payments at the rate prescribed by law calculated from the date on which any such payment was made by the patient and/or third party-payors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (October 1994).

Appendix

[Name of Physician/Group]
[Address]
[Telephone Number]

DISCLOSURE OF
FINANCIAL INTEREST
As Required by La. Rev. Stat. §37:1744 and
46 La. Admin. C. §46:XLV.4211-.4215

TO: _____ Date: _____
(Name of Patient to Be Referred)

_____
(Patient Address)

Louisiana law requires physicians and other health care providers to make certain disclosures to a patient when they refer a patient to another health care provider or facility in which the physician has a significant financial interest. [I am/we are] referring you, or the named patient for whom you are legal representative, to:

_____
(Name and Address of Provider to Whom Patient is Referred)

to obtain the following health care services, products or items:

_____
(Purpose of the Referral)

[I/we] have a financial interest in the health care provider to whom we are referring you, the nature and extent of which are as follows:

_____
_____
_____

PATIENT ACKNOWLEDGEMENT

I, the above-named patient, or legal representative of such patient, hereby acknowledge receipt, on the date indicated and prior to the described referral, of a copy of the foregoing Disclosure of Financial Interest.

_____
(Signature of Patient or Patient's Representative)

Delmar Rorison
Executive Director

9410#044

RULE

Department of Health and Hospitals
Board of Veterinary Medicine

License Renewal Late Charge (LAC 46:LXXXV.505)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq., notice is hereby given that the Louisiana Board of Veterinary Medicine has amended LAC 46:LXXXV.505.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXXV. Veterinarians
Chapter 5. Fees
§505. License Renewal Late Charges

Any license renewed after the published expiration date stated in R.S. 37:1524 shall be subject to an additional charge of $100 as a late fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 and 1520(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1429 (November 1993), amended LR 20: (October 1994).

Vikki L. Riggle
Executive Director

9410#016

RULE

Department of Health and Hospitals
Office of Management and Finance

Health Services Provider Fee Repayment Schedule

The Department of Health and Hospitals, Office of Management and Finance, adopts the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This amends the rule adopted in March 1993, which imposed a fee on the providers of certain health care services as authorized under P.L. 102-234.

Rule

I. If the provider of health services is delinquent in payment of the provider fees and if the provider is enrolled as a Medicaid provider:

A. If the delinquent provider fee amount including interest and penalties is equal to or less than 20 percent of the Medicaid check to be issued, then the total amount will be deducted from the Medicaid reimbursement check.

B. If the delinquent provider fee amount including interest and penalties is more than 20 percent of the Medicaid check to be issued:

1. Either 10 percent of the total amount owed, or 20 percent of the amount of the check, whichever is lesser, will be deducted from each Medicaid reimbursement check. Once the amount owed is equal to or less than 20 percent of the check, the owed amount will be deducted from the next check.

2. If the amount owed is equal to or exceeds $100,000, then 10 percent of the total amount owed will be deducted from the monthly Medicaid reimbursement check.

3. The health services provider must agree that during the period of time the arrears is being collected no additional delinquency will occur. If the provider becomes further delinquent, the department reserves the right to collect immediately the full balance due.

II. If the health services provider is not enrolled as a Medicaid provider and is delinquent in payment of the provider fees:

A. The provider must agree that during the time period the amount in arrears is being collected no additional delinquency will occur. If the provider becomes further delinquent, the department reserves the right and intends to collect immediately the full balance due.

B. The provider shall agree to pay monthly 10 percent of the total amount owed, until the full arrears balance is less than 20 percent of the original amount, and to pay in the next month the full balance owed.

C. The department may require, and the provider must agree, that the provider execute a promissory note and any other documents to secure the note.

D. The department may avail itself of any appropriate judicial remedy.

Rose V. Forrest
Secretary

9410#052

RULE

Department of Health and Hospitals
Office of Public Health

Maternal and Child Health Block Grant Application

The Department of Health and Hospitals (DHH) is applying for Maternal and Child Health (MCH) Block Grant Federal Funding for FY 1994-95 in accordance with Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, and with federal regulations as set forth in the Federal Register Vol. 47, No. 129, Tuesday, July 6, 1982, pages 29472-29493. DHH will continue to administer programs funded under the MCH Block Grant in accordance with provisions set forth in Public Law 97-35 and the federal regulations. The Office of Public Health is the office responsible for program administration of the grant.

A copy of the Maternal and Child Health Block Grant Application may be viewed at the Office of Public Health, 325 Loyola Avenue, Room 612, New Orleans, LA 70112 or at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

Rose Forrest
Secretary

9410#053

RULE

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

Nonemergency Medical Transportation Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is adopting the following rule in the Medicaid Program under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements the following provisions in the Nonemergency Medical Transportation Program.

A. Coverage Requirements

1. The agency shall limit trips to 24 trips per year per recipient. This maximum is based on a two trip per month average utilization under the current program. The agency shall advise against and counsel recipients utilizing more than two trips per month. However due to the individual nature of need for medical care the service limit will not apply to monthly utilization.

2. Authorization for payment for transportation shall be issued only when the recipient provides proof and or a sworn statement that they have no other means of transportation on the date of the medical service. Family will be strongly encouraged to provide transportation at no cost to the recipient or the program.

3. When transportation is not available through family and friends, payment shall be authorized for the least costly means of transportation available. The least costly means of transportation shall be determined by the agency and shall be determined according to the following hierarchy: city or parish public transportation, family and friends who meet the state license and insurance requirements and who are willing to enroll and be paid a flat rate for transportation, intrastate public conveyance (such as bus, train or plane), nonprofit agencies and organizations that provide a transportation service and who are enrolled in the Medicaid Program, and profit providers enrolled in the Medicaid Program. Recipients shall be allowed a choice of providers when the cost of two or more providers are equal.

4. Authorization for payment for transportation shall be issued only for transportation to the nearest available qualified provider of routine or specialty care within reasonable proximity to the individual. For purposes of this rule reasonable proximity shall be interpreted to mean the local city or town in which people of like living circumstance usually do their shopping and business activities. Recipients are encouraged to utilize medical providers of their choice in the community in which they reside when the recipient is also in need of Medicaid reimbursed transportation services. The fact that the agency will still pay for the actual medical service received outside of the community in which the recipient resides does not obligate the agency to reimburse for transportation to accommodate such a choice.

5. When the recipient chooses to utilize a medical provider outside of the community due to preference and/or history payment shall be authorized only for the cost of transportation to the nearest available provider.

6. The recipient shall be responsible for securing any agreements with family and friends, nonprofit or profit providers to make the longer trip for the payment authorized. If the recipient needs help with making such arrangements the agency will help but the help given will imply no obligation to provide a greater reimbursement.

7. When specialty treatment required by the recipient necessitates travel over extended distances authorization for payment for intrastate transportation shall be determined according to the following criteria. Intrastate transportation reimbursement shall be authorized when medical services are not available to the recipient in his community. Payment shall be authorized when free transportation is not available. The agency shall still authorize payment only for the most economical means of transportation. This may be through negotiating payment for transportation with family and or friends or through accessing the public conveyance systems such as bus, train or plane. The determination as to use of public conveyance shall be based on least cost, medical condition of the recipient to be transported, and availability of public conveyance.

8. When it has been verified that public conveyance is unavailable or inappropriate for intrastate transportation the recipient shall solicit transportation from family and friends. The agency will authorize payment to assist the family in accessing the needed medical services. Payment will be based on distance to be traveled to the nearest available similar or appropriate medical services, parking and tolls. In determining the amount of payment the cost of the least costly public conveyance shall used as the base cost to be paid to the family. Payment shall not be available for room and board or meals.

9. When no other means of transportation is available through family and friends or public conveyance, the agency will solicit intra-state transportation through a nonprofit provider. The nonprofit provider will be paid a negotiated fee based the usual fee charged by the nonprofit provider, distance to be traveled and using the fees for public conveyance as a basis for determining the rate. If the nonprofit provider cannot accept the trip then the agency will negotiate with profit providers to access the least costly means of transportation available in the profit provider community. The negotiated fee shall be determined by distance to be traveled using the fees for public conveyance as a basis for determining the rate to be authorized.

10. Payment for nonemergency transportation to regular, predictable and continuing medical services, such as hemodialysis, chemotherapy or rehabilitation therapy, as determined by the agency, shall be a capitated payment.

11. The payment schedule for round trips to be utilized by the agency is as follows:

PROVIDER	SERVICE AUTHORIZED	AMOUNT
Public transit	Local transportation	Public rates
Family/friends	Local transportation	$ 7.50/per trip
Nonprofit	Local transportation	$ 12/recipient
Profit	Local transportation	$ 15/recipient
Family/friends	Capitated (Urban)	$ 75/month
	Capitated (Rural)	$115/month
Profit	Capitated (Urban)	$150/month
	Capitated (Rural)	$200/month
Public conveyance	Intrastate	Public rates
Family/friends	Intrastate	Negotiated*/trip
Nonprofit	Intrastate	Negotiated*
Profit providers	Intrastate	Negotiated*

*Negotiated payments shall be flat fees determined by distance to be traveled using the fees for public conveyance as a basis for determining the rate to be authorized. Flat fees shall be predetermined for frequently traveled routes for the area and the predetermined rate shall be the rate paid to all family/friend providers or to all nonprofit and profit providers.

12. The agency will not authorize "same day" trips except in the instance of need for immediate medical care due to injury or illness. Same day trips will not be authorized for scheduled appointments for predictable or routine medical care. Clients will be asked to reschedule the appointment and make the subsequent request for transportation timely.

13. Payment will not be made for any additional person(s) who must accompany the recipient to the medical provider.

14. An individual provider will be reimbursed for a trip to the nearest facility that will meet the recipient's medical needs. However, the individual provider may transport the recipient to a more distant facility if the individual provider will accept reimbursement from the bureau to the nearest facility and assumes responsibility for additional expenses incurred.

B. Enrollment Requirements:

1. For profit providers must comply with all state laws and the regulations of any other governing state agency or commission or local entity to which they are subject as a condition of enrollment and continued participation in the Medicaid Program.

2. Nonemergency medical transportation profit providers shall have a minimum liability insurance coverage of $100,000 per person and $300,000 per accident or a $300,000 combined service limits policy. The liability policy shall cover (1) any autos, (2) hired autos, and (3) nonowned autos. Premiums shall be prepaid for a period of six months. Proof of prepaid insurance must be a true and correct copy of the policy issued by home office of the insurance company. Statements from the agent writing the policy will not be acceptable. Proof

must include the dates of coverage and a 30 day cancellation notification clause. Proof of renewal must be received by the Medicaid agency no later than 48 hours prior to the end date of coverage. The policy must provide that the 30 day cancellation notification be issued to the Bureau of Health Services Financing. Upon notice of cancellation or expiration of coverage the agency will immediately cancel the provider agreement for participation. The ending date of participation shall be the ending date of insurance coverage. Retroactive coverage statements will not be accepted. Providers who lose the right to participate due to lack of prepaid insurance may re-enroll in the transportation program and will be subject to all applicable enrollment procedures, policies, and fees for new providers.

3. The $5,000 performance bond, letter of credit or cashier check is no longer required.

4. The 90 day waiting period in the enrollment process is no longer required.

5. Nonemergency medical transportation profit and nonprofit providers must have either a FAX machine or have the BLAST software capability as determined by the Medicaid Program based on the basis of volume of trips authorized to the provider.

6. As a condition of reimbursement for transporting Medicaid recipients to medical services, family and friends must maintain the state minimum automobile liability insurance coverage, a current state inspection sticker, and a current valid drivers license. No special inspection by the Medicaid agency will be conducted. Proof of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the Medicaid agency is sought. Proof shall be the sworn and notarized statement of the individual enrolling for payment that all three requirements are met. Family and friends shall be enrolled and shall be allowed to transport up to three specific Medicaid recipients or all members of one Medicaid assistance unit. The recipients to be transported by each such provider will be noted in the computer files of the agency. Individuals transporting more than three Medicaid recipients shall be considered profit providers and shall be enrolled as such.

7. As a condition of participation for out of state transport, providers of transportation to out of state medical services must be in compliance with all applicable federal interstate commerce laws regarding such transportation including but not limited to the $1,000,000 insurance requirement. Proof of compliance with all interstate commerce laws must be submitted when enrollment in the Medicaid Program is sought or prior to providing any out of state Medicaid transportation.

8. A provider must agree to cover the entire parish or parishes for which he provides nonemergency medical transportation services.

C. Recipients' Responsibilities

1. Recipients shall participate in securing transportation at low cost and shall agree to use public transportation or solicit transportation from family members and friends as an alternative to more costly means of transport.

2. When the recipient alleges that public conveyance cannot be used due to medical reasons, then verification shall be provided by giving the agency a written statement from a doctor that includes the specific reason(s) that the use of public conveyance is contraindicated by the medical condition of the recipient. In no case can preference of the recipient be the sole determining factor in excluding use of public conveyance.

D. Nonemergency Medical Transportation Utilization Review

1. The Medicaid Program will employ four regional transportation utilization review groups, with representation from the medical community to review recipient requests for extension of trips. The review will include consideration of patterns of utilization considered above the norm for the recipient's peer group and the particular medical needs of the recipient. A series of recipient profiles showing utilization patterns will be brought before the committee for review and only in cases where the committee recommends to the bureau an extension beyond the 24 trip limit will recipient's number of trips above 24 be reimbursed. The regional committee shall utilize basic extension criteria to be developed by Medicaid management. Approval to transport will not be made until the regional committee has recommended approval of the extension. The Medicaid director or his designee has the right to make urgent approvals without going before the committee.

2. Programming will be refined to utilize the prior authorization file to assure reimbursement only for authorized trips assigned a valid authorization number.

3. Any recipient who knowingly abuses the transportation program will be locked-in to a medical provider and a transportation provider of the department's choice after review by the regional committee and based on their recommendation.

D. Procedural Requirements

1. Dispatch personnel will coordinate to the extent possible trips for family members so that all recipients in a family are transported as a unit at one time to the same or close proximity providers.

2. Providers must submit a signed affidavit with claims certifying that a true and correct bill is being submitted.

3. If the provider has declined to accept a trip on a particular day the dispatch personnel will not assign additional trips to that provider for that same day.

G. Suspensions and Terminations

Providers are subject to suspension from the Nonemergency Medical Transportation Program upon agency documentation of inappropriate billing practices.

Rose V. Forrest
Secretary

9410#051

RULE

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

Standards for Payment for Hospital Specialty Units

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act.

The Bureau of Health Services Financing has adopted criteria entitled Standards for Payment for Hospital Specialty Units which establish requirement for Medicaid reimbursement for specialized neonatal and pediatric intensive care, burn and transplant services to Medicaid recipients. These requirements are as follows.

I. Neonatal Care Units

Level I Unit

1. Unit Mission

a. To evaluate the condition of healthy neonates and provide continuing care of these neonates until their discharge in compliance with state regulations regarding eye care, hearing screening, and metabolic screening.

b. To stabilize unexpectedly small or sick neonates before transfer to a Level II, Level III, or Level III Regional NICU unit.

c. To maintain consultation and transfer agreements with Level II, Level III and Level III Regional NICU units, emphasizing maternal transport when possible.

2. Minimum Levels of Care

a. Resuscitation and stabilization of all inborn neonates.

b. Nursery defined area with limited access and security or rooming-in facilities.

c. Parent-neonate visitation/interaction must be provided.

d. Data collection and retrieval.

3. Medical Staff

a. A Level I neonatal unit medical director and/or department chief must be a board eligible or board certified pediatrician; or a board eligible or board certified family practitioner on staff.

4. Nursing Staff

a. A nurse manager dedicated for the neonatal care area shall be available to all units. The nurse manager shall have specific training and experience in Neonatal Intensive Care. The nurse manager shall participate in the development of written policies and procedures for the neonatal care areas, coordinate staff education and budget preparation with the medical director. The nurse manager shall name qualified substitutes to fulfill his or her duties during their absences. Nurse to patient ratios will vary with patient needs; however, the range for Level I will be 1:8.

Level II Unit

1. Unit Mission. A Level II NICU unit must be capable of the following:

a. Must meet the requirements of the Level I neonatal unit services at a superior level.

b. To provide management of small, sick neonates with a moderate degree of illness that are admitted or transferred.

2. Minimum Levels of Care

a. Performance of all Level I neonatal unit services at a superior level.

b. Neonatal ventilatory support, vital signs monitoring, and fluid infusion in defined area of the nursery.

c. Neonates born in a Level II NICU unit with a birth weight of less than 1000 grams must be transferred to a Level III or Level III Regional NICU unit once they have been stabilized if they require prolonged ventilatory support or have life threatening diseases or surgical complications requiring a higher level of care.

d. Neonates with a birth weight in excess of 1000 grams who require prolonged ventilation therapy shall be cared for in a Level II NICU unit, provided such unit performs a minimum of 72 days of ventilator care annually. A day of ventilator care is defined as any period of time during a 24-hour period.

e. If a Level II NICU unit performs less than 72 ventilator days per year, it must transfer any neonate requiring prolonged (greater than 24 consecutive hours) ventilator therapy to a Level III or Level III Regional NICU unit. Neonates requiring transfer to a Level III or Level III Regional NICU unit may be returned to a Level II NICU unit for convalescence.

3. Medical Staff

a. A board certified pediatrician of a Level II NICU unit with subspecialty certification in neonatal medicine must be the medical director and/or department chief.

In existing units, consideration will be given to waiving this requirement for board certified pediatricians with a minimum of five years experience in neonatal care who are currently serving as medical directors of Level II units. The request for waiver must be made in writing to the Office of the Secretary.

4. Nursing Staff

a. A nurse manager dedicated for the neonatal care area shall be available to all units. The nurse manager shall have specific training and experience in development of written policies and procedures for the neonatal care areas, coordinate staff education and budget preparation with the medical director. The nurse manager shall name qualified substitutes to fulfill his or her duties during their absences. Nurse to patient ratios will vary with patient needs; however, the range for Level II will be 1:3-4.

5. Support Personnel. The following support personnel should be available to the perinatal care service of Level II and Level III NICU units:

a. At least one full-time medical social worker who has experience with the socioeconomic and psychosocial problems of high-risk mothers and fetuses, sick neonates, and their families (additional medical social workers may be required if the patient load is heavy).

b. At least one occupational or physical therapist with neonatal expertise.

c. At least one registered dietitian/nutritionist who has special training in perinatal nutrition and can plan diets that meet the special needs of high-risk mothers and neonates.

d. Qualified personnel for support services such as laboratory studies, radiologic studies, and ultrasound examinations (these personnel should be readily available 24 hours a day).

e. Respiratory therapists or nurses with special training who can supervise the assisted ventilation of neonates with cardiopulmonary disease (optimally, one therapist is needed for each four neonates who are receiving assisted ventilation).

Level III Unit

1. Unit Mission. A Level III NICU unit must be capable of the following:

a. must meet all requirements of the Level I neonatal unit and Level II NICU services at a superior level;

b. provision of comprehensive care of high-risk neonates of all categories admitted and transferred;

c. a Level III NICU unit will have a neonatal transport agreement with Level III Regional unit and will be involved in organized outreach educational programs.

2. Minimum Levels of Care

a. There must be one neonatologist for every 10 patients in intensive care (Level III NICU unit) area. If the neonatologist is not in-house, there must be one licensed physician who has successfully completed the Neonatal Resuscitation Program (NRP), or one neonatal nurse practitioner in-house for Level III NICU unit patients who require intensive care. A five year phase-in period will be allowed in order for the hospital to recruit adequate staff to meet these requirements.

b. Obstetrics and neonatal diagnostic imaging, provided by obstetricians or radiologists who have special interest and competence in maternal and neonatal disease must be available 24-hours a day.

c. A Level III NICU unit shall have a neonatologist or a licensed physician (who has successfully completed the Neonatal Resuscitation Program (NRP), or a neonatal nurse practitioner in-house at all times.

3. Medical Staff

a. The medical director and/or department chief of a Level III NICU unit must be a board-certified pediatrician with subspecialty certification in neonatal medicine. The following exceptions are recognized.

1) Board eligible neonatologists must achieve board certification within five years of completion of fellowship training.

2) In existing units, consideration will be given to waiving this requirement for neonatologists who are currently medical directors and/or department chiefs of Level III NICU's. The request for waiver must be made in writing to the Office of the Secretary/Bureau of Health Services Financing. This exception applies only to the individual at the hospital where the medical director and/or department chief position is held. The physician can not relocate to another hospital nor can the hospital replace the medical director and/or department chief for whom the exception was granted and retain the exception.

3) There must be one neonatologist for every 10 patients in the intensive care Level III NICU unit area. If the neonatologist is not in-house, there must be one licensed physician (who has successfully completed the neonatal resuscitation program (NRP), or one neonatal nurse practitioner in-house for Level III NICU unit patients who require intensive care. A five year phase-in period will be allowed in order for the hospital to recruit adequate staff to meet these requirements. A Level III NICU unit shall have a neonatologist, or a licensed physician (who has successfully completed the neonatal resuscitation program (NRP), or a neonatal nurse practitioner in-house at all times.

b. Medical and surgical consultation must be readily available and pediatric subspecialists may be used in consultation with a transfer agreement with a Level III Regional NICU unit.

4. Nursing Staff

a. A nurse manager dedicated for the neonatal care area shall be available to all units. The nurse manager shall have specific training and experience in the development of written policies and procedures for the neonatal care areas, coordinate staff education and budget preparation with the medical director. The nurse manager shall name qualified substitutes to fulfill his or her duties during their absences. Nurse to patient ratios will vary with patient needs; however, the range for Level III NICU unit will be 1:2-3.

5. Support Personnel. The following support personnel shall be available to the perinatal care service of Level II and Level III, and Level III Regional NICU units.

a. At least one full-time medical social worker who has experience with the socioeconomic and psychosocial problems of high-risk mothers and fetuses, sick neonates, and their families (additional medical social workers may be required if the patient load is heavy).

b. At least one occupational or physical therapist with neonatal expertise.

c. At least one registered dietitian/nutritionist who has special training in perinatal nutrition and can plan diets that meet the special needs of high-risk mothers and neonates.

d. Qualified personnel for support services such as laboratory studies, radiologic studies, and ultrasound examinations (these personnel shall be readily available 24-hours a day).

e. Respiratory therapists or nurses with special training who can supervise the assisted ventilation of neonates with cardiopulmonary disease (optimally, one therapist is needed for each four neonates who are receiving assisted ventilation).

Level III Regional Unit

1. Unit Mission. A Level III Regional NICU unit must be capable of the following:

a. must meet all requirements of the Level I neonatal unit and Levels II and III NICU unit services at a superior level;

b. a Level III Regional NICU unit must have a transport team and provide for and coordinate a maternal and neonatal transport with Level I, Level II, and Level III NICU's throughout the state;

c. A Level III Regional unit shall be recognized as a medical center of excellence, and a center of research, educational and consultative support to the medical community.

2. Medical Staff

a. The medical director and/or department chief must be a board certified neonatologist.

b. In addition to the medical staff requirements for a Level III NICU unit, a Level III Regional NICU unit shall have the following subspecialties on staff and clinical services available to provide consultation and care in a timely manner:

Pediatric surgery	Pediatric cardiology
Pediatric neurology	Pediatric hematology
Genetics	Pediatric nephrology
Endocrinology	Pediatric gastroenterology
Pediatric infectious disease	Pediatric pulmonary medicine
Cardiovascular surgery	Neurosurgery
Orthopedic surgery	Pediatric urologic surgery
Pediatric ophthalmology	Pediatric ENT surgery
Pediatric nutritionist	Pediatric PT/OT
Neonatal Social Services	Bioethics committee

3. Nursing Staff

a. A nurse manager dedicated for the neonatal care area shall be available to all units. The nurse manager shall have specific training and experience in neonatal intensive care. The nurse manager shall participate in the development of written policies and procedures for the neonatal care areas, coordinate staff education and budget preparation with the medical director. The nurse manager shall name qualified substitutes to fulfill his or her duties during their absences. Nurse to patient ratios will vary with patient needs; however, the range for Level III Regional unit will be 1:1-2.

4. Support Personnel. The following support personnel shall be available to the perinatal care service of Level I, II, III, and III Regional NICU units:

a. at least one full-time medical social worker who has experience with the socioeconomic and psychosocial problems of high-risk mothers and fetuses, sick neonates, and their families (additional medical social workers may be required if the patient load is heavy);

b. at least one occupational or physical therapist with neonatal expertise;

c. at least one registered dietitian/nutritionist who has special training in perinatal nutrition and can plan diets that meet the special needs of high-risk mothers and neonates;

d. qualified personnel for support services such as laboratory studies, radiologic studies, and ultrasound examinations (these personnel shall be readily available 24 hours a day);

e. respiratory therapists or nurses with special training who can supervise the assisted ventilation of neonates with cardiopulmonary disease (optimally, one therapist is needed for each four neonates who are receiving assisted ventilation).

Pediatric Intensive Care Units

The new reimbursement methodology recognizes two categories of Pediatric Intensive Care Units (PICU). Although pediatric critical care is provided primarily at one level there is a need for an additional level of care in geographic regions with small population base, to allow stabilization of critically ill children, to avoid long-distance transfers for disorders of less complexity or of low acuity. The criteria established for recognition as a PICU for Medicaid reimbursement purposes are as follows:

Organization and Administrative Structure

There shall be a PICU Committee established as a standing committee of the hospital. It shall be composed of at least physicians, nurses, respiratory therapists and other disciplines as appropriate to the specific hospital unit. The committee shall participate in delineation of privileges for all personnel (both MD and NON-MD) within the unit. Policies and procedures shall be established by the medical director and the nurse manager in collaboration with the committee and approval of the medical staff and governing body. These written policies and procedures shall be maintained in the unit and shall include, but not be limited to, safety procedures, infection control, visitation, admission and discharge criteria, patient monitoring and record keeping, equipment preventive maintenance and repair.

Physical Design and Facilities

The Level I and II units shall be distinct, separate units within the hospital. There shall be clean and soiled utility rooms, isolation room capabilities, medication and nourishment storage areas, and a conference area available on the units.

Bedside Facilities

The head of each bed and/or crib shall be rapidly accessible for emergency airway management. Electrical power, oxygen, medical compressed air and vacuum outlets shall be available at each bed/crib. There shall be walls or curtains available at each bedside to provide for full visual privacy.

Medical Director/Department Chief

Level I units shall be (1) board-certified in pediatrics and board certified or in the process of board certification in Pediatric Critical Care Medicine [must be completed within five years]; (2) board certified in anesthesiology with practice limited to infants and children and with special qualifications (as defined by the American Board of Anesthesiology) in critical care medicine; or (3) board certified in pediatric surgery with added qualifications in surgical critical care medicine (as defined by the American Board of Surgery). Level II medical director must meet the same criteria of Level I except the board certification in Pediatric Critical Medicine is not required. The medical director will name a qualified alternate to serve in his absence.

In existing units, consideration will be given to waiving this requirement for board certified pediatricians with a minimum of five years experience in pediatric care who are currently serving as medical directors of Level I and II units. The request for waiver must be made in writing to the Office of the Secretary.

Medical Staff

Level I and II units must have at least one physician of at least the postgraduate year 2 assigned to the PICU in house 24 hours per day. Other physicians including the attending physician or designee shall be available within 30 minutes. Level I units shall have on staff a pediatric anesthesiologist, surgeon, cardiothoracic surgeon, neurosurgeon, intensivist, cardiologist, neurologist, pulmonologist, hematologist/oncologist, endocrinologist,

gastroenterologist, allergist or immunologist, as well as a radiologist, pathologist and a psychiatrist or psychologist. Level II units shall meet the above medical staff except the cardiothoracic surgeon and the pediatric sub-specialties. (There shall be a five year phase-in period with regard to staffing requirements.)

Nursing Staff

Level I and II shall have a unit manager dedicated to the unit who is a registered nurse with specific training and experience in pediatric critical care. The Level I manager shall be certified in critical-care nursing. The nurse manager shall name a qualified alternate to act in his/her absence. The staff to patient ratio shall vary with the acuity of the patients; however, the minimum shall be 1:3. There shall be an organized written orientation program as well as an ongoing in service/continued education program.

Ancillary Support Personnel

For the Level I Units the respiratory therapy staff assigned to unit shall be in house 24 hours per day. Biomedical technicians shall be available within one hour, 24 hours a day. Unit clerk shall be readily available to the unit 24 hours a day. A pharmacist and radiology technician must be in house 24 hours a day. Social worker, physical therapist and nutritionist are assigned to the unit as applicable.

For the Level II Units the respiratory therapist in house 24 hours a day. biomedical technician available within one hour 24 hours a day. Pharmacist and radiologist on call 24 hours a day. Unit clerks, social worker, physical therapist and nutritionist available as applicable.

Additional Hospital Facilities and Services

Level I units shall be located in Category 1 facility as defined by the American Academy of Pediatrics. The Emergency Department (ED) shall have a separate covered entrance. Two or more areas within the ED shall have the capacity and equipment to resuscitate any pediatric patient with any medical, surgical or traumatic illness facilities within Level I units. Hospitals with Level II units only need one such area. The emergency room shall be staffed 24 hours a day in facilities with either Level I or II units. There shall be a operating suite with one room available within 30 minutes and a second room within 45 minutes 24 hours a day. Hospitals with Level I units must have the capability of providing cardiopulmonary bypass, pediatric bronchoscopy and radiography. Clinical laboratories shall have micro-specimen capability, clotting studies with one hour turn around capability. There must also be the capability to perform complete blood cell count, differential count, platelet count, urinalysis, electrolytes, blood urea nitrogen, creatine, glucose calcium, prothrombin time, partial prothrombin time, and cerebrospinal fluid cell counts. Preparation of gram stains and bacteriologic cultures shall be available 24 hours per day. Blood gas values must be available within 15 minutes. Results of drug screening and levels of serum ammonia, serum and urine osmolarity, phosphorus and magnesium shall be available within three hours for Level I units. There must be a blood bank able to provide all blood components 24 hours a day in both Level I and II. Cross matching shall allow for transfusions within one hour unless some unusual antibody is encountered. Hospitals with Level I units must have radiology services capable of portable radiography, fluoroscopy, computerized tomography scanning, ultrasonography, and nuclear scanning angiography. Diagnostic cardiac and neurologic studies shall be available to both Level I and II unit facilities. A catheterization laboratory or angiography suite must be present in facilities with Level I units. Level I units shall have the capability to provide hemodialysis 24 hours a day.

Equipment/Drugs

There shall be lifesaving therapeutic and monitoring equipment present in Level I and II units. There shall be a complete "code" or "crash" cart available on both Level I and II units. The cart contents should include, but not be limited to, approved medications, a defibrillator/cardioverter, automated blood pressure apparatus devices available on Level I and II units. All equipment shall be of proper size for infants and children. Oxygen tanks are needed for transport and backup for both Level I and II units. There will be additional equipment available to meet the needs of the patient population. Level I units shall have the capability of ventilator support. There must be bedside monitoring in all PICUs with the capability for continuously monitoring heart rate and rhythm, respiratory rate, temperature and one hemodynamic pressure. In level I, units must also have the ability to monitor systemic arterial, central venous, pulmonary arterial and intracranial pressures. The monitors must have alarms with both high and low settings and they must also have both audible and visible capability. There shall be a maintenance and calibration schedule maintained for all monitoring devices.

Pre-hospital Care

PICUs shall be integrated with the Regional EMS system as available. Rapid access to a Poison Control Center is essential. Each PICU shall have or be affiliated with a transport; system and team to assist other hospitals in arranging safe patient transport.

Miscellaneous Requirements

There shall be a quality assurance program in place which reviews quality of care and compares observed and predicted mortality rates for the severity of illness in the population of the PICU. Each Level I PICU shall offer pediatric critical care education for EMS providers, emergency department and transport personnel as well as for the general public. The staff nurses and respiratory therapists must also have Basic Life Support Certification.

A Level I PICU offering a fellowship Program in Pediatric Critical Care will possess sufficient patient volume, teaching expertise, and research capability to support its program. Programs providing sub-specialty training in critical care must possess approval by the residency review committee of the accreditation council on graduate medical education. Research is essential for improving our understanding of the pathophysiology affecting vital organ systems. Such knowledge is vital to improve patient care techniques and therapies and thereby decrease morbidity and mortality.

Burn Care Unit

Burn care units are to provide optimal care for patients with burn injuries (both adults and children) from the time of injury through rehabilitation. DHH is adopting the American Burn Association's guidelines which are specified below.

Organizational Structure Documentation of Policies and Procedures

The commitment of the institution's medical and administrative leadership should be documented in a burn center manual with policies specifying the commitment. Policies included should address the institutional relationships, administrative operation, staffing, and programs of the burn center.

The burn unit is a specialized nursing unit that is dedicated to burn care. The use of beds in the burn unit by other medical/surgical services should be governed by a protocol specifying priorities and assuring the availability of specialized burn beds for patients with acute burns when needed.

Relationship to Other Medical Staff

The availability and accessibility of consultation by physicians and surgeons in all specialties relevant to the care of the patient with burns should be documented. An on-call schedule should be established for the most important specialty areas.

Burn Service

An organized burn service should be formally established by the medical staff of the institution. The members of the burn service should be properly certified by the institution. The chief of the burn service should serve as the medical director of the burn center.

Qualifications of the Burn Center Director

The medical director of the burn center should be a licensed, board certified general or plastic surgeon on the active medical staff of the institution with at least two years experience in the management of patients in a burn center.

Responsibilities of the Burn Center Director

The medical director will be provided by the institution with the appropriate authority and responsibility to direct and coordinate all medical services to patients admitted to the burn center. The medical director will be responsible for regular communications with physicians and other authorities regarding referred patients, and for appropriate burn center management functions, including quality assurance, liaison with adjacent burn centers, internal and external education programs, and coordination with regional and state EMS programs. The burn center director will designate one or more appropriately certified physicians with at least six months experience in management of the patient with burns to be accessible for administrative and clinical decisions when the director is not available. The burn service director should participate actively in at least 50 cases a year.

Consistency of Protocol and Reporting

The care of the burn center patients accommodated in areas other than the specialized nursing unit should be guided by policies and protocols consistent with those of the burn unit. Similarly, annual statistical reports should encompass care provided both in the burn nursing unit and in other units accommodating burn center patients.

Admission of Census Levels for the Burn Center

The following numbers of patients are deemed appropriate to maintain skill levels and provide reasonable access to specialized burn care. The average daily census of the burn center, including the burn unit and any other areas accommodating patients with acute injuries in the burn service, should be at least four patients with acute burns. The number of acute burn admissions to the burn center, including the burn unit and any other areas accommodating burn center patients, should exceed 75 annually. Burns identified as usually requiring referral to a burn center (as detailed in the next paragraph) should make up at least 80 percent of the admissions required to meet this standard.

Burn Center Referral Criteria

Burn injuries usually requiring referral to a burn center include the following (questions concerning specific patients can be resolved by consultation with the burn center physician):

1. second and third degree burns greater than 10 percent total body surface area (TBSA) in patients under 10 or over 50 years of age;
2. second and third degree burns greater than 20 percent TBSA in other age groups;
3. second and third degree burns that involve the face, hands, feet, genitalia, perineum, and major joints;
4. third degree burns greater than five percent TBSA in any age group;
5. electrical burns including lightning injury;
6. chemical burns;
7. burn injury with inhalation injury;
8. burn injury in patients with preexisting medical disorders that could complicate management, prolong recovery, or affect mortality;
9. any patients with burns and concomitant trauma (for example, fractures) in which the burn injury poses the greatest risk of morbidity or mortality. In such cases, if the trauma poses the greater immediate risk, the patient may be treated initially in a trauma center until stable before being transferred to a burn center. Physician judgment will be necessary in such situations and should be in concert with the regional medical control plan and triage protocols;
10. hospitals without qualified personnel or equipment for the care of children should transfer children with burns to a burn center with these capabilities;
11. burn injury in patients who will require special social/emotional and/or long-term rehabilitative support, including cases involving suspected child abuse, substance abuse, etc.

Medical Personnel

Medical care to burn center patients should be provided by the burn center medical director or other appropriately certified physicians operating with the director's approval and utilizing standard burn center patient care protocols.

Coverage

There should be at least one full-time equivalent surgeon involved in the management of patients with burns for each 200 annual inpatient admissions to the burn center. This coverage requirement may be met in part by residents.

Surgical Specialty Support

Staff specialists are to be on call and available promptly for consultation in the specialties listed below. The initial response may be provided by residents who are capable of assessing emergency situations in their respective specialties and who can provide any immediately indicated treatment.

The surgical specialties for which staff members are to be on call for are: general, cardiothoracic, neurologic, obstetrics/gynecologic, ophthalmic, oral, orthopedic, otorhinolaryngologic, pediatric, plastic, urologic.

Nonsurgical Specialty Support

Members of the following nonsurgical specialties should be available: anesthesiology, cardiology, gastroenterology, hematology, infectious disease, internal medicine, nephrology, neurology, nutrition, pathology, pediatrics, physiatry, psychiatry, pulmonary, radiology.

Nursing Personnel

One registered nurse (RN) should be administratively responsible for the burn unit. This individual should be a full-time employee with two years of intensive care or equivalent experience and a minimum of 12 months of experience in a burn unit. Education qualifications will be a baccalaureate degree (minimum) and at least six months of management experience.

Staffing Levels

The assigned number of nursing staff hours should be based on a documented patient classification system.

Burn Rehabilitation Therapy

Both physical and occupational therapy should be represented in the burn center staff. The respective roles of physical and occupational therapy should be representative of and consistent with their respective professional training and with licensing laws.

Coverage

Burn rehabilitation therapists may be physical therapists or occupational therapists. They should be licensed or registered in their specific disciplines and should be assigned on a full-time basis to the burn center. Staffing should be based on the combined inpatient and outpatient work load of the burn service. There should be at least one full-time equivalent burn therapist for an average of seven patients, which may represent a combination of both inpatients and outpatients.

Rotation of Personnel

Where either therapy service is provided to the burn center on a rotational basis, rotations must be for at least three months and must be filled by therapists who meet the continuing education requirements in burn care as related to their specialty.

Supervision

During their initial rotation, therapists in either discipline should receive regular supervision from individuals who have a minimum of one year of experience in burn treatment.

Other Personnel - Social Worker

A social worker should be assigned permanently to inpatient and outpatient burn care facilities. If assignment is by rotation, such rotations should be at least one year in duration.

Nutrition

A dietitian should be available on a daily basis for consultation to burn center medical and nursing staff and patients.

Pharmacy

A pharmacist should be available on a daily basis for consultation to burn center medical and nursing staff and patients. This pharmacist should have had a minimum of six months of critical care experience and should be knowledgeable in pharmacokinetics and the special kinetics of patients with burn injuries.

Respiratory Therapy

Respiratory therapists should be available to participate in the assessment and treatment of all burn center patients as needed.

Clinical psychologists and clergy should be assigned permanently to inpatient and outpatient burn care facilities. If assignment is be rotation, such rotations should be at least one year in duration.

The majority of pediatric patients with burns are treated in burn centers with both adult and pediatric patients. Burn centers that treat pediatric patients should have personnel with special interest and expertise in the care and management of children with burns.

Other Services

Protocols governing the involvement of other hospital departments in support of the burn center should be included in the burn center manual. Such departments will include, but not limited to, central supply, emergency, housekeeping, laboratory, pharmacy, public relations, security, and volunteers.

Program for Quality Assurance

The burn center manual will include protocols and policies that support systematic and comprehensive approaches to the care of the patient with burns. These should include triage and resuscitation/stabilization protocols that should be disseminated to health care providers within the burn center service area. A coordinated multidisciplinary plan should be developed for each patient on admission and revised as appropriate during hospitalization with respect to both treatment objectives during hospitalization and postdischarge plans.

Weekly Conference

Conferences should be held at least weekly to review and evaluate the status of each burn center inpatient with representation by each clinical discipline regularly involved in burn center care. The conference should include a review of each patient's progress in recovery, need for surgery, and rehabilitation needs, both physical and psychosocial.

Other Conferences

A documented morbidity/mortality conference should be held at regular intervals consistent with education program requirements. Other conferences of a problem-solving nature should be scheduled with minutes taken to document the responsibility for problem-solving and to record the results of actions taken.

Registry

The burn center will have an internal registry for all inpatients and should participate in an externally based registry.

Audit

The burn center will provide an audit of the previous year's patient care covering at least severity of burn, deaths, incidence of complications, length of hospitalization, and cost of care. Additional audits of any of these or other elements of care will be carried out as a given situation requires.

Participation in EMS System

The burn center will cooperate with the appropriate audit

committees of the regional or state EMS system where they exist, by providing patient care data for system management, quality assessment, and operations research, both routinely and in response to special requests, and by participating in local audits of the EMS system.

Other Programs

Education Program

Medical, nursing, and ancillary staff of the burn center will participate in educational programs or activities pertaining to burn care, both at initial orientation and on a planned, organized and coordinated inservice basis. Educational programs should be designed to incorporate the results of problem-solving audits and conferences.

Participants in the hospital's general surgery and other residency programs should have the opportunity to experience a rotation to the burn service.

A formal educational program in burn care shall be required for all nurses, physical therapists, and occupational therapists employed in the burn center with burn care content equivalent to approximately four continuing education units. This educational program will be related to the individual nurse's or therapist's background and level of responsibility in the burn center. Nurse education will be planned and coordinated by the burn unit head nurse or by a member of the hospital nursing staff with equivalent critical care and burn nursing experience.

All professional personnel employed in the burn center will have access to continuing education programs in burn care conducted inside or outside the institution on at least an annual basis. All educational programs should meet the standard of some external organization that provides or approves curriculum or continuing education programs, where such an organization is available.

Rehabilitation Program

The burn center should provide the following rehabilitation services:

1. recreational and educational services during hospitalization for those patients able to utilize them;
2. evaluation of needs and support capabilities of patient's family or other significant persons and cooperative planning with family or other significant persons for patient discharge;
3. documentation of need for and availability and accessibility of community resources to assist in meeting the patient's physical, psychosocial, educational, and vocational needs following discharge. The social worker assigned to the burn unit should coordinate these activities. A clinical psychologist or psychiatrist should be available for consultation as needed;
4. evaluation of each patient's physical, psychological, and vocational status should be done at appropriate intervals after discharge from the hospital;
5. plans for readmission for medical/surgical treatment for late problems or rehabilitation and reconstruction.

Burn Prevention

A member of the burn center or hospital staff should be assigned to maintain data and develop statistics regarding the causes of injuries sustained by burn center patients. Each burn center system should participate in a public burn awareness program covering prevention and immediate treatment of burn injuries.

Burn Research

Burn center staff should be involved in research related to burn injury that may include, but is not limited to, basic research, clinical research, or health services research.

Configuration and Equipment

The burn unit should contain beds that should be used predominantly for the care of patients with burn injuries or those suffering form other injuries or skin disorders whose treatment requirements are similar to those of patients with burns. Intensive care capability, providing full cardiopulmonary monitoring and respiratory support, should be available for at least four beds in the burn unit. Because of the known susceptibility of burn wounds to infection, an effective means of isolation should be provided for all patients.

Equipment

The following equipment should be available to all patients in the burn unit: weight measurement devices, a system of temperature control in areas where patients' wounds are exposed, oxygen sources with concentration controls, cardiac emergency cart, and backup electrical supply.

The following equipment and supplies should be available in both the hospital emergency department and the burn unit and should be available in sizes and doses appropriate for adult and pediatric patients; airway control and ventilation equipment, including laryngoscope and endotracheal tubes of appropriate sizes; bag mask resuscitator and source of oxygen; bronchoscopes; suction devices; sterile surgical sets; gastric lavage equipment; drugs and related supplies; roentgenographic equipment; Foley catheters; electrocardiograph/oscilloscope/defibrillator; apparatus to establish central venous pressure; and intravenous fluids and administration devises, including intravenous catheters.

Communications with Prehospital Services

There should be a direct communication link between the prehospital system and the burn center. The contact point may be either in the burn unit or in the emergency department.

Renal Dialysis Capability

There should be provision for renal dialysis on a 24-hour basis or a written transfer agreement with an available and accessible dialysis facility in another hospital.

Radiologic Capability

The hospital's radiologic capability should be provided on a 24-hour basis and should include angiography, sonography, nuclear scanning, and computed axial tomography.

Clinical Laboratory Service

The hospital's clinical laboratory service should be available 24 hours a day and should include the following capabilities; routine studies for blood, urine, and other body fluids; blood gases; pH determinations and carboxyhemoglobin; coagulation studies; serum and urine osmolality; microbiologic culture and sensitivity; comprehensive blood bank or access to a community central blood bank; adequate hospital storage facilities; and toxicology screening.

Operating Suites

Operating suites used in burn surgery should contain or have access to the following equipment; operating microscope,

thermal control equipment for patients, roentgenographic equipment, dermatomes including mesh dermatones, electrocardiograph/oscillo scope/defibrillator, direct blood pressure arterial line equipment, blood flow rate monitor, in-line blood and intravenous fluid warmers and anesthetic breathing circuit heating humidifiers.

Skin Bank

If a skin bank exists, the physical configuration must conform to the standard of the American Association of Tissue Banks or equivalent. If there is no skin bank, a protocol for procurement and handling of banked skin should exist, if banked skin is used.

Special Areas

A conference room/meeting room, a family room and an adequate exercise area must be available.

Transplants

Transplant services covered under the Medical Assistance Program include but are not limited to heart, liver, kidney and bone marrow transplants for which rates have been established. Transplants must be pre-approved by the department and performed in hospitals that meet the federal criteria required to qualify as a Medicare-designated transplant center including volume requirements for related procedures when applicable. The bureau's health standards section may grant an exception to the qualifying criteria for a hospital whose transplant program was recognized by Medicaid of Louisiana prior to July 1, 1994. These hospitals must operate or participate in a recognized organ procurement program.

As transplants become recognized as non-experimental and covered by Medicare, the department will develop rates and criteria accordingly.

In addition to the above criteria, transplant units must meet the following criteria for recognition by Medicaid for specialty unit reimbursement:

1) must be a member of the (OPTN) Organ Procurement and Transplant Network;

2) must have organ receiving and tissue typing facility (HCFA approved for histocompatibility) or an agreement for such services;

3) must maintain written records tracking mechanism for all grafts and patients including:

a) patient and/or graft loss with reason specified for failure;

b) date of procedure;

c) source of graft;

d) if infections agent involved must have written policy for contacting patients and appropriate governmental officials;

4) must have written criteria for acceptable donors for each type of organ for which transplants are performed;

5) must have adequate ancillary departments and qualified staff necessary for pre-, intra-, and post-operative care including but not limited to:

a) assessment team;

b) surgical suite;

c) intensive care;

d) radiology;

e) laboratory pathology;

f) infectious disease;

g) dialysis;

h) therapy (rehab);

6) minimum designated transplant staff:

a) transplant surgeon—adopt standards as delineated and updated by the Organ Procurement and Transplant Network;

b) transplant physician—same as above;

c) clinical transplant coordinator:

(1) RN Licensed in Louisiana;

(2) certified by NATCO or in training and certified within 18 months of hire date;

d) transplant social worker;

e) transplant dietician;

f) transplant data coordinator;

g) transplant financial coordinator;

Note: (For 6.a-g above, continuing education is required for continued licensure and certification as applicable.

7) written patient selection criteria and an implementation plan for application of criteria;

8) facility plan, commitment and resources for a program capable of performing the following number of transplants per year/per organ a minimum of:

a) heart - 12;

b) liver - 12;

c) kidney - 15;

other organs as established per Medicare and/or OPTN. If level falls below the required volume, the hospital will be evaluated by health standards for continued recognition as a transplant center;

9) facility must demonstrate survival rates per organ type per year which meet or exceed the mean survival rates as published annually by the OPTN. (If rates fall below this level, the hospital must supply adequate written documentation for evaluation and justification to Health Standards.)

Hospitals seeking Medicaid reimbursement for high intensity services such as NICU, PICU, burn care and/or transplant must request and submit an application to provider enrollment of the Bureau of Health Services Financing of the Department of Health and Hospitals specifying the service and level of care they are/will be providing. Each applicant must also attest to their compliance with the specified service criteria for each type of service.

Upon receipt of each application, provider enrollment will notify the health standards section of BHSF of DHH to schedule an on-site survey to verify the applicant's compliance with such standards. All applicants will be scheduled within 30 days after receipt of their applications. Annual resurveys will be performed on a 15 percent sample basis throughout the calendar year.

A hospital wishing to change a level of care must submit an application to provider enrollment and an attestation to their compliance with the new levels's requirements. A change in level of care will only be recognized at the beginning of the hospital's subsequent cost reporting period after the health standards section has verified the applicant's compliance via an on-site survey. Therefore, requests should be filed ninety days prior to the beginning of the new cost reporting period.

Rose V. Forrest
Secretary

9410#050

RULE

Department of Health and Hospitals
Office of the Secretary
Medical Disclosure Panel

Informed Consent—Intravenous Injection of Radiopaque Contrast Media (LAC 48:I.2430)

As authorized by R.S. 40:1299.40(E), as enacted by Act 1093 of 1990 and later amended by Act 962 of 1991 and Act 633 of 1993, the Department of Health and Hospitals, Office of the Secretary, in consultation with the Medical Disclosure Panel, adopts LAC 48:I.2430 in Chapter 23, Informed Consent, which requires which risks must be disclosed under the Doctrine of Informed Consent to patients undergoing medical treatments or procedures and the Consent Form to be signed by the patient and physician before undergoing such treatment or procedure. This amends rules adopted in the February 1994 issue of the *Louisiana Register*, pages 193-194, by adding §2430.

Title 48
PUBLIC HEALTH - GENERAL
Part I. General Administration
Chapter 23. Informed Consent
§2430. Intravenous Injection of Radiopaque Contrast Media (both ionic and nonionic)

This procedure has been identified by the Louisiana Medical Disclosure Panel as having no risks that are required to be disclosed. Absence of required disclosure of risks does not mean that consent for the treatment or procedure is not necessary. Furthermore, it may be necessary to disclose risks if a complicating medical condition is present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E), et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (October 1994).

Rose V. Forrest
Secretary

9410#054

RULE

Department of Insurance
Commissioner of Insurance

Regulation 48—Health Insurance Standardized Claim Forms

In accordance with the provisions of R.S. 49:950 et seq. of the Administrative Procedure Act and under the authority of R.S. 22:3 and R.S. 22:11, the commissioner of insurance hereby adopts an amendment to Section 5.C. of Regulation 48. The regulation provides for the standardization of claims forms used for billing health care services.

Amendment to Regulation 48
Standardized Claims Forms

Section 1. - Section 4. ...

Section 5. Requirements for use of HCFA Form 1500

A. - B.2. ...

C. An issuer may not require a health care provider to use any other descriptor with a code or to furnish additional information with the initial submission of a HCFA Form 1500 except under the following circumstances:

1. - 3. ...

4. as otherwise required by federal regulation; or

5. as otherwise required by the Office of Workers' Compensation of the Louisiana Department of Labor.

D. ...

Section 6. - Section 8. ...

James H. "Jim" Brown
Commissioner of Insurance

9410#045

RULE

Department of Natural Resources
Office of Conservation

Crude Oil Depth—Statewide Order 151-A-2 (LAC 43:XIX.3701-3709)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order 151-A-2.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation: General Operations
Subpart 16. Statewide Order No. 151-A-2
Chapter 37. Statewide Crude Oil Depth Bracket Allowable Schedule
§3701. Scope

Order establishing a Statewide Crude Oil Depth Bracket Allowable Schedule for Oil Wells in addition to providing additional allowable incentive to horizontal oil wells.

AUTHORITY NOTE: Promulgated in accordance with Act 157.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 24, 1948, amended June 4, 1950, January 1, 1951, February 1, 1951, January 31, 1952, May 19, 1952, July 1, 1957, July 1, 1959, January 1, 1960, January 1, 1961, July 18, 1961, October 1, 1962, March 1, 1967, January 1, 1967, November 1, 1967, January 1, 1978; amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20: (October 1994).

§3703. Definitions

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

Horizontal Oil Well—a well with the wellbore drilled laterally at an angle of at least 80 degrees to the vertical and with a horizontal displacement of at least 50 feet in the pool in which the well is completed for production, measured from the initial point of penetration into such pool.

Maximum Efficient Rate(MER)—the maximum sustainable daily oil withdrawal rate from a reservoir which will permit economic development and depletion without causing waste.

AUTHORITY NOTE: Promulgated in accordance with Act 157.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 24, 1948, amended June 4, 1950, January 1, 1951, February 1, 1951, January 31, 1952, May 19, 1952, July 1, 1957, July 1, 1959, January 1, 1960, January 1, 1961, July 18, 1961, October 1, 1962, March 1, 1967, January 1, 1967, November 1, 1967, January 1, 1978; amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20: (October 1994).

§3705. Allowable Schedule for Oil Wells Other than Horizontal Wells

A. The Statewide Crude Oil Depth Bracket Allowable Schedule for oil wells other than horizontal wells is listed below:

MEASURED DEPTHS	STATEWIDE ALLOWABLE (BPD)
0 - 2000	200
2 - 3000	300
3 - 4000	400
4 - 5000	500
5 - 6000	600
6 - 7000	700
7 - 8000	800
8 - 9000	900
9 - 10000	1000
10 - 11000	1100
11 - 12000	1200
12 - 13000	1300
13 - 14000	1400
14 - 15000	1500
15 - 16000	1600
16 - 17000	1700
17 - 18000	1800
18 - 19000	1900
19 - 20000	2000
20 - 21000	2100
21 - 22000	2200
etc.	etc.

B. The measured depth of the deepest perforation in the pool shall be used in determining the applicable depth bracket allowable for all wells in the pool.

AUTHORITY NOTE: Promulgated in accordance with Act 157.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 24, 1948, amended June 4, 1950, January 1, 1951, February 1, 1951, January 31, 1952, May 19, 1952, July 1, 1957, July 1, 1959, January 1, 1960, January 1, 1961, July 18, 1961, October 1, 1962, March 1, 1967, January 1, 1967, November 1, 1967, January 1, 1978; amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20: (October 1994).

§3707. Horizontal Oil Well Allowables

A. Subject to §3707.B and C, the allowable for each horizontal oil well shall be its Maximum Efficient Rate.

B. Allowables assigned to units in competitive reservoirs shall be subject to adjustment if needed to prevent adverse drainage or to protect correlative rights after public hearing based on 10 days legal notice.

C. A unit in a competitive reservoir containing multiple unit wells, at least one of which is a horizontal well, shall be assigned an allowable equal to the greater of the maximum efficient rate for the horizonal well or the applicable depth bracket.

AUTHORITY NOTE: Promulgated in accordance with Act 157.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 24, 1948, amended June 4, 1950, January 1, 1951, February 1, 1951, January 31, 1952, May 19, 1952, July 1, 1957, July 1, 1959, January 1, 1960, January 1, 1961, July 18, 1961, October 1, 1962, March 1, 1967, January 1, 1967, November 1, 1967, January 1, 1978; amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20: (October 1994).

§3709. Effective Date

This order supersedes Statewide Order No. 151-A-1 and shall be effective upon publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with Act 157.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 24, 1948, amended June 4, 1950, January 1, 1951, February 1, 1951, January 31, 1952, May 19, 1952, July 1, 1957, July 1, 1959, January 1, 1960, January 1, 1961, July 18, 1961, October 1, 1962, March 1, 1967, January 1, 1967, November 1, 1967, January 1, 1978; amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20: (October 1994).

H. W. Thompson
Commissioner

9410#018

RULE

Department of Natural Resources
Office of Conservation

Multiple Completions—Statewide Order 29-B-a
(LAC 43:XIX.1101-1105)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby proposes to amend Statewide Order No. 29-B-a.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation: General Operations
Subpart 4. Statewide Order No. 29-B-a
Chapter 11. Required Use of Storm Chokes

§1101. Scope

Order establishing rules and regulations concerning the required use of storm chokes to prevent blowouts or uncontrolled flow in the case of damage to surface equipment.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 15, 1946, amended March 1, 1961, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20: (October 1994).

§1103. Applicability

A. All flowing wells with a surface pressure in excess of 100 pounds, falling within the following categories, shall be equipped with storm chokes:

1. any locations inaccessible during periods of storm and/or floods, including spillways;
2. located in bodies of water being actively navigated;
3. located in wildlife refuges and/or game preserves;
4. located within 660 feet of railroads, ship channels, and other actively navigated bodies of water;
5. located within 660 feet of state and federal highways in Southeast Louisiana, in that area East of a North-South line drawn through New Iberia and South of an East-West line through Opelousas;
6. located within 660 feet of state and federal highways in Northeast Louisiana, in that area bounded on the West by the Ouachita River, on the North by the Arkansas-Louisiana line, on the East by the Mississippi River, and on the South by the Black and Red Rivers;
7. located within 660 feet of the following highways:
   a. U.S. Highway 71 between Alexandria and Krotz Springs;
   b. U.S. Highway 190 between Opelousas and Krotz Springs;
   c. U.S. Highway 90 between Lake Charles and the Sabine River;
8. located within the corporate limits of any city, town, village, or other municipality.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 15, 1946, amended March 1, 1961, amended and promulgated by Department of Natural Resources, Office of Conservation, LR 20: (October 1994).

§1105. Waivers

A. Onshore Wells. Where the use of storm chokes would unduly interfere with normal operation of a well, the commissioner of conservation may, upon submission of pertinent data, in writing, waive the requirements of this order.

B. Offshore Wells

1. The district manager, upon submission of pertinent data, in writing explaining the efforts made to overcome the particular difficulties encountered, may waive the use of a subsurface safety valve under the following circumstances, and may, in his discretion, require in lieu thereof a surface safety valve:
   a. where sand is produced to such an extent or in such a manner as to tend to plug the tubing or make inoperative the subsurface safety valve;
   b. when the flowing pressure of the well is in excess of 100 psi but is inadequate to activate the subsurface safety valve;
   c. where flow rate fluctuations or water production difficulties are so severe that the subsurface safety valve would prevent the well from producing at its allowable rate;
   d. where mechanical well conditions do not permit the installation of a subsurface safety valve;
   e. in such other cases as the district manager may deem necessary to grant an exception.
2. Under the following circumstances no formal approval is necessary. However, each company will maintain records indicating the date a subsurface safety valve is removed, the reason for its removal, and the date it is reinstalled:
   a. when the flowing pressure of the well is 100 psi or less;
   b. when it is necessary to perform routine maintenance and service work; to clean up completions and recompletions in wells where a subsurface safety valve would otherwise be in service.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1961, amended March 15, 1961, amended and promulgated by Department of Natural Resources, Office of Conservation, LR 20: (October 1994).

H. W. Thompson
Commissioner

9410#019

RULE

Department of Public Safety and Corrections
Office of Motor Vehicles

Driver's License Retesting Fee (LAC 55:III.127)

In accordance with R.S. 49:950 et seq., and under authority conferred by Title 32 of the Revised Statutes, in general, and R.S. 32:412, in particular, the Department of Public Safety and Corrections, Office of Motor Vehicles gives notice that rulemaking procedures have been initiated to adopt retesting fees, LAC 55:III.127.

This regulation has been adopted to allow for the Office of Motor Vehicles to recover the costs incurred when administering driver's license tests a second or subsequent time.

The text of this proposed rule, which became effective February 24, 1994, through declaration of emergency, was published on page 277 of the March 20, 1994 *Louisiana Register.*

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles
Chapter 1. Driver's License
§127. Retesting Fees

Each person who takes a second or subsequent test, whether written or driving, administered by the Office of Motor Vehicles in connection with an application for the issuance or renewal of a driver's license, shall pay a nonrefundable fee of $10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412 H.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 20: (October 1994).

Paul W. Fontenot
Deputy Secretary

9410#027

RULE

Department of Revenue and Taxation
Severance Tax Division

Severance Tax (LAC 61:I.2903)

Under the authority of R.S. 47:633 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation, Severance Tax Division, has amended LAC 61:I.2903.A.8 pertaining to the taxable value of oil and/or condensate.

Severance tax is collected on oil and/or condensate based on a percentage of its value at the time and place of severance. R.S. 47:633(7) states that "Such value shall be the higher of (1) the gross receipts received from the first purchaser, less charges for trucking, barging and pipeline fees, or (2) the posted field price." This amendment clarifies the definition of value, gross receipts, and posted field price; and defines what constitutes an arm's length transaction.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation
Chapter 29. Natural Resources: Severance Tax
§2903. Severance Taxes on Oil: Distillate, Condensate or Similar Natural Resources; Natural Gasoline or Casinghead Gasoline; Liquefied Petroleum Gases and Other Natural Gas Liquids; and Gas

A. Definitions

* * *

8. *Value*—with respect to oil and/or condensate, the value shall be the higher of (1) the gross receipts received from the first purchaser by the producer or (2) the posted field price.

a. *Gross Receipts*—the total amount of payment (i) received from the first purchaser, in an arm's length transaction, or (ii) received from the first purchaser or transferred from the first purchaser by recognized accounting methodology, in a non-arm's length transaction. Gross receipts shall include bonus or premium payments when made by the purchaser to the owner, all advanced payments, and any other thing of value such as exchanges, barter, or reimbursement of costs. Advanced payments are not taxable until the oil and/or condensate for which such payments are made are actually severed and delivered to the purchaser.

b. *Posted Field Price*—a statement of crude oil prices circulated among buyers and sellers of crude petroleum and is generally known by buyers and sellers within the field as being the posted price. The posted field price is the actual price of crude petroleum advertised for a field. The area price is a statement of crude oil prices circulated among buyers and sellers of crude petroleum listing prices for different areas of the state, usually listed as north Louisiana and south Louisiana, and generally known among buyers and sellers within the area as the posted price. This area price is the beginning price for crude petroleum of an area before adjustments for kind and quality (including but not limited to gravity adjustments) of the crude petroleum. When no actual posted field price is advertised or issued by a purchaser, the area price less adjustments for kind or quality (including but not limited to gravity adjustments) becomes the posted field price.

c. *Arm's Length Transaction*—a contract or agreement that has been arrived at in the open market place between independent and nonaffiliated parties with opposing economic interests.

d. *Non-arm's Length Transaction*—a contract or agreement between subsidiaries and/or related parties and/or affiliates.

e. *Value in Arm's Length Transaction*—in an arm's length transaction the value shall be the gross receipts of all things of value received directly or indirectly by the producer.

f. *Value in Non-arm's Length Transaction*—in a non-arm's length transaction, the value shall be derived by taking the following into consideration:

i. the gross receipts of all things of value received directly or indirectly by the producer.

ii. if the producer or a subsidiary, related party, or an affiliate of the producer, is the purchaser, look to the gross proceeds from contemporaneous arm's length transactions by such purchaser for the purchase of significant quantities of like quality oil or condensate in the same field, or if necessary, the same area.

iii. the prices paid by independent and nonaffiliated parties for significant quantities of like quality oil or condensate produced in the same field or, if necessary, the same area.

iv. other relevant information, including information submitted by the producer concerning the unique circumstances of producer's operations, product or market.

g. The secretary, in the absence of supporting documentation or arm's length transaction, may adjust a producer's reported value to conform with the above mentioned standards.

h. *Transportation Costs*—there shall be deducted from the value determined under the foregoing provisions the charges for trucking, barging, and pipeline fees actually charged the producer. In the event the producer transports the oil and/or condensate by his own facilities, $ .25 per barrel shall be deemed to be a reasonable charge for transportation and may be deducted from the value computed under the foregoing provisions. The producer can deduct either the $ .25 per barrel or actual transportation charges billed by third parties but not both. Should it become apparent the $ .25 per barrel charge is inequitable or unreasonable, the secretary may prospectively redetermine the transportation charge to be

allowed when the producer transports the oil/or condensate in his own facilities.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:633.

HISTORICAL NOTE: Adopted by the Department of Revenue and Taxation, Severance Tax Division, August 1974, amended LR 3:499 (December 1977), LR 20: (October 1994).

Carl Reilly
Assistant Director

9710#017

RULE

Department of Social Services
Office of Family Support

JOBS Program Components (LAC 67:III.2916)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 5, Job Opportunities and Basic Skills Training Program.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 5. Job Opportunities and Basic Skills Training Program
Chapter 29. Organization
Subchapter C. Activities and Services
§2916. Program Components

Program components are the employment-related activities that may be provided to a participant.

* * *

8. Independence through Work. This is unsalaried job experience and training at clearly defined, well-supervised worksites, excluding private homes and worksites that do not lead to gainful employment. This program is limited to AFDC-Unemployed Parents and the minimum scheduled participation must be 20 hours per week.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq. and 45 CFR 250.63, 250.33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 17:1227 (December 1991), LR 19:504 (April 1993), LR 20: (October 1994).

Gloria Bryant-Banks
Secretary

9410#047

RULE

Department of Social Services
Office of the Secretary

Class "A" Minimum Standards—Sick Child Day Care Centers (LAC 48:I.Chapter 53)

In accordance with the provision of R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Social Services, Office of the Secretary, Bureau of Licensing, under the authority vested in R.S. 46:1401-1424 has adopted the following licensing standards for day care centers that care for sick children.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing
Chapter 53. Day Care Centers
§5401. Definitions

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

Sick Child—any child who is prohibited from usual participation in a day care center (as defined above) due to discomfort, injury or other symptoms of illness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20: (October 1994).

§5403. Standards

A. The Louisiana Administrative Code, Title 48, Chapter 53, §5301 et seq., which pertain to Class "A" day care licensing regulations, apply to the sick child day care centers as well.

B. In addition to §5309 regarding application for licensure, any existing facility approved as a day care center that wishes to utilize the facility for sick child care, must submit another application and fee for licensure as a sick day care center. Facilities and/or rooms designated for use by and for sick children shall not be used by children or staff from any other day care component. Children and staff who begin their day in a sick child care center shall remain throughout the day and shall not be permitted to return to any other part of the child care center or transfer to any other child care center.

C. Facilities receiving approval as a sick child care center that are also approved as a day care center will be issued one license designating licensure for both components. The licensee shall ensure that the day care center for sick children is maintained physically separate and apart from the other day care center components. A center licensed for both day care and sick day care must be relicensed for each component. A

center licensed for both day care and sick day care may have a license revoked for either or both of the above components according to §5309.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20: (October 1994).

§5405. Personnel

A. All personnel shall have verification of current immunizations. (See Appendix A for recommended immunization as dictated by the Office of Public Health.)

B. All personnel shall have verification of an annual TB test with negative result.

C. In addition to §5309.G, there shall be a currently licensed nurse practitioner or registered nurse on the premises of the sick day care center at all times. The registered nurse must have documented experience in pediatrics or child care experience and be knowledgeable in communicable diseases and child care licensing requirements.

D. Sick day care providers shall utilize the services of a physician consultant as verified by written contract or agreement.

1. The consultant shall be used to assist the nurse in the development and annual review of written policies and procedures for the following:

a. admission, including inclusion/exclusion criteria;

b. health evaluation procedures on intake including physical assessment of the child and other criteria used to determine the appropriateness of a child's attendance;

c. plans for health care and managing children with communicable disease;

d. plans for disease surveillance and problems which arise in the care of children;

e. plans for staff training and communication with parents and health care providers;

f. employee health and immunization requirements.

2. The physician consultant shall provide on-going consultation to the program in its overall operation and the management of illness for individual children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20: (October 1994).

§5407. Training

A. In addition to §5311 regarding staff training and development, all facilities licensed as a sick child care center shall conduct and document 20 hours of orientation training by the registered nurse for each staff member upon employment or within 30 days of employment to include training in each of the following subjects:

1. first aid and CPR;

2. general infection control procedures; including:

a. handwashing;

b. handling contaminated items;

c. use of disinfectants;

d. universal precautions;

3. care of children with common childhood illnesses including:

a. disease transmission;

b. recognition and documentation of illness signs and symptoms;

c. health department notification of reportable diseases;

d. administration of medications;

e. temperature taking;

f. nutrition of sick children;

g. communication with parents of sick children;

h. knowledge of immunization requirements;

i. when and how to call for medical assistance;

4. child development activities for children who are sick.

B. An employee who transfers from one facility to another within one year can transfer documented orientation training to the new facility.

C. Annually, each director and staff member of a sick child care facility shall have at least three contact hours of continuing education related to the care of sick children and the prevention and control of communicable disease. This should be some formal type of training and can represent three hours of the 12 hours already required in Chapter 53, §5311.

D. In addition, four hours of annual training in general aspects of infection control in child care are to be conducted by the nurse practitioner or registered nurse. Documentation shall consist of the minutes of the training/staff meetings or statement signed by both the employee/provider (director, nurse practitioner, etc.) attesting to having received the training. This documentation shall be filed in the employee's personnel record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20: (October 1994).

§5409. Staffing

A. §5313 regarding staff/child ratio and §5317 regarding group size will not apply to sick child care centers. Facilities approved as a sick child care center shall maintain a staff/child ratio no less than the following:

Child's Age	Staff/Child Ratio	Maximum Group Size* Per Room
0-12 month(s)	1:3	3
13-24 months	1:3	6
25-59 months	1:5	10
5-7 years	1:8	8
8-12 years	1:10	10

*NOTE: These numbers may vary according to the specific disease or illness. Final approval will be required by the health department or physician consultant.

B. The number of qualified medical personnel (licensed practical nurse or registered nurse) required depends on the severity of illness/level of professional care required.

1. Level 1—Nonacute (mildly sick, recuperating from ear infections, chickenpox, influenza, etc.) one medical personnel per 20 - 25 children.

2. Level 2—Acute (recent surgery requiring skilled nursing care, use of apnea blanket, etc.) one medical personnel per 10 children.

C. When there are mixed age groups, excluding children under one, the staff/child ratio shall be consistent with the age of the youngest child. Children under the age of one shall not be placed in a room with older children.

D. A caregiver assigned to a specific group of sick children shall remain with those same children throughout the caregiver's workday.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20: (October 1994).

§5411. Plant Equipment

A.1. In addition to §5319.A.1 regarding indoor space, a center providing day care for sick children as a component of a licensed center for well children shall use rooms/areas and facilities which are physically separated by floor to ceiling walls from other components of the center. The center shall ensure that all entrances/exits, fixtures, furniture, equipment and supplies designated for use in the care of sick children and for use by the children shall not be shared with or used by any other component of the center.

2. A single kitchen may be shared by the facilities for sick and well children if the kitchen is staffed by a cook who has no other child care responsibilities.

B. Children with respiratory illnesses, gastrointestinal illnesses and noninfectious illnesses shall be cared for in a separate room from each other to reduce the likelihood of disease transmission between disease cohorts of children by limiting child-to-child interaction, separating staff responsibilities by disease cohort, and limiting the commingling of supplies, toys and equipment.

C. Children with chickenpox and measles shall not be admitted for care in a sick child care center unless the care shall take place in a separate room, which is externally ventilated outside of the facility (preferably a positive airflow system) with floor to ceiling walls. There must also be a separate exterior entrance for these children to enter the sick day care center.

D. §5319.A.2.a should be omitted and the following inserted: A program for sick day care children shall not be required to have 75 square feet of outdoor space for each child. The program should instead develop a written plan to ensure some opportunities for safe outdoor activities in accordance with §5323.C.2.

E. In addition to §5319.B.1 regarding available working telephone, the capability of having a three-way conversation on the telephone is required. This regulation allows for the timely and accurate communication between the parent, the child's pediatrician or the physician consultant, and the registered nurse from the sick child care center. Communication with parents and children's physicians should be handled by the registered nurse, licensed practical nurse or management staff only.

F. In addition to §5319.B regarding furnishings and equipment, a toilet and handwashing sink shall be present in each child care room. All rooms used for diapered children must have a diaper changing area placed adjacent to the handwashing sink.

G. §5319.B.6 regarding individual and appropriate sleeping arrangements is amended to omit any reference to use of mats.

H. §5319.B.8 regarding spacing is amended to require 3 feet of space between cribs or cots when in use.

I. All children in attendance are to be under direct visual observation by program staff at all times.

J. Children shall have access at all times to rest/nap areas without distraction or disturbance from other activities whenever the child desires.

K. In addition to §5319.C regarding sanitary requirements, the following shall be included:

1. spills of body fluids (urine, feces, blood or wound drainage) shall be cleaned up immediately as follows:

a. in general, routine housekeeping procedures using a freshly prepared solution (every 24 hours) of commercially available cleaner (detergents, disinfectant-detergents, or chemical germicides) compatible with most surfaces are satisfactory for cleaning spills of vomitus, urine and feces;

b. for spills of blood or blood-containing body fluids and wound drainage, a freshly prepared solution (every 24 hours) of household bleach (1/4 cup diluted in one gallon of water) shall be used to disinfect the area of the spill. Disposable gloves shall be used in these situations;

c. persons involved in cleaning contaminated surfaces shall avoid exposure of open skin lesions or mucous membranes to blood or blood-containing body fluids and wound or tissue drainage by using gloves to protect hands when cleaning contaminated surfaces;

d. hands are to be washed after activities a, b or c;

2. toys which are placed in children's mouths shall be cleaned with water and detergent, disinfected and rinsed before handling by another child. Nonwashable toys shall not be provided by the center. If such toys are brought from home they must be limited to personal use articles that are NOT shared between children;

3. single-use, disposable cups shall be provided for all children. Disposable plates and eating utensils shall be used unless there is a mechanical dishwasher meeting local sanitation standards.

L. In addition to §5319.E.5 regarding safety requirements, the sick child care center shall have several different sizes of oral airways on hand in case of emergencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20: (October 1994).

§5413. Admission Policies and Procedures

A. In addition to §5321 regarding admission of children to the day care center, the sick child care facility shall develop a written procedure prior to initiating services, to obtain necessary medical information to meet health standards, (e.g., immunizations, inclusion/exclusion) and to implement the program. This includes the background diagnostic information, health and social history. Information shall be sought on all therapies and treatments being provided to the child along with the expected length and frequency of expected services. The sick child care program shall include a procedure for conducting physical assessments on all children entering the facility. The program shall also institute a policy

on the management of children with communicable diseases. These policies must be in compliance with all sick day care center regulations.

B. Specific disease surveillance policies shall be employed to prevent and control communicable diseases in the sick child care center. Each sick child care center shall have a written policy for reporting certain communicable disease cases to the Office of Public Health and notifying the parents.

C. The facility's program shall obtain and keep records of the child's immunization and health history, treatments, prescribed medications and any special procedures that the child may require.

D. The facility's program shall also describe feeding, toileting, active and quiet activities, and special interventions for children with special needs and shall be made available to parents and licensing staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20: (October 1994).

§5415. Physical Assessment

A. Prior to admission to a sick day care center, the registered nurse shall review the child's condition and medical history with the parent to determine if the child is eligible for sick care, the placement of the child and his/her care plan. This should preferably be done by phone to minimize exposure to other children and to eliminate the need for a visit to the facility if ineligible.

B. If it is determined that the child may be eligible for sick child care, a physical assessment shall be performed by a registered nurse or physician. Physical assessments shall document the following:

1. if child can be admitted to the sick day care center;
2. if child should be referred to a physician;
3. if child has signs of a contagious illness or a more serious illness that is not immediately apparent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20: (October 1994).

§5417. Care of Children

A. In addition to §5309.G.3.b.ii, no staff member with infectious skin lesions which cannot be covered shall be responsible for food handling.

B. Each meal and/or snack shall be prepared in accordance with the requirements of the physician and the subsequent care plan. Parents are allowed to provide food if this practice is within the facility's approved policies and procedures.

C. §5323.B.1 is amended as follows: The administration of prescription medicines at the sick child day care center shall be limited to those prescribed by a licensed physician for the individual child in the original container labeled by a pharmacist. Over the counter drugs may be administered with written permission of the parent or guardian in conformity with the policies and procedures established by the physician consultant or the child's physician. All medication (prescription or over the counter) shall be in the original container.

D. §5323.B.5 is amended for sick child care to read as follows: The sick child care facility shall not accept or retain any child for care who displays any of the following signs, symptoms or illnesses:

1. labored breathing;
2. undiagnosed rash;
3. fever of 101°F or greater by rectal standards in any child under three months of age;
4. fever of 101°F or greater by rectal standards in any child under one year of age not seen by a physician;
5. persistent vomiting and/or severe diarrhea;
6. signs of dehydration;
7. untreated lice, scabies, pinworm, ringworms;
8. severe lethargy (drowsiness);
9. symptoms of pertussis such as: whooping cough, spasmatic cough with vomiting or persistent cough with profuse nasopharyngeal secretions not diagnosed by a physician;
10. sore throat accompanied by fever (above 100°F oral) not seen by a physician;
11. undiagnosed stomatitis;
12. fever (100° F oral or 101° F rectal) associated with any one or more of the above symptoms;
13. contagious stage of measles, chicken pox, or mumps unless sick child care facility is expressly set up to handle these children according to §5319.A. The child with one of these diseases must be able to enter the facility by a separate entrance/exit from the rest of the children;
14. any other conditions that the nurse practitioner or physician consultant determines should be excluded.

NOTE: Children with such conditions as specified in §5323.B.5 above may be accepted for sick child care when the evaluation and health assessment conducted by the nurse practitioner or physician consultant results in the determination that the child is not seriously sick.

E. Children needing post-operative convalescent care and children with short-term disabilities such as tracheostomy tubes, colostomy, gastronomy tubes or apnea monitors or children with long-term disabilities who exhibit illnesses/symptoms for which they are excluded from a day care program for well children may be admitted to a sick day care center if the program can ensure all of the following:

1. The center has on staff a registered nurse with documented competence to handle a specific disability.
2. The center has appropriate equipment and staff with documented competence and/or experience in operating the equipment.
3. The center has, prior to admission, written permission from the child's physician with specification of any skilled nursing treatment to be provided to the child.

F. The sick child care center shall be equipped to isolate and care for any sick child who is suspected of having a communicable disease.

1. The isolation area shall be located to afford easy observation, access and continuous supervision. The child shall be under constant visual observation by staff.
2. The isolation area shall not be in the kitchen, food preparation or general use toilet area.

3. In centers that have both a day care and a sick day care component, the isolation area shall be separate from the isolation areas of all other day care center components.

G. A sick child shall be temporarily isolated if either one of the following occurs:

1. The center determines that the condition of the child becomes worse warranting notification of the parent.

2. The child is determined to have any one or combination of symptoms or conditions as specified in §5323.B.5.

H. §5323.B.6 is amended for sick child care to read as follows: The parent or legal guardian shall be notified immediately of any significant change in a child's behavior or signs of illness. This information and the subsequent notification of parent by phone shall be recorded in writing and filed in the child's record.

I. §5323.C regarding daily program should be deleted. The following should be inserted.

1. A care plan shall be developed and updated daily for each child in order to establish guidelines for care, to assure that each child is treated as an individual and to assure continuity of care. The care plan shall be completed with the assistance of the child's parent and shall be verified by the parent's signature and date on the plan. The plan of care should consider:

a. the age and stage of development of the child;
b. symptoms or illness displayed;
c. parent's and/or physician's instructions;
d. observations;
e. objectives for the child;
f. activity level.

2. A variety of planned daily activities shall be designed to meet the needs of the sick children including:

a. quiet and active indoor and outdoor activities according to the developmental level, ability and physical condition of each child;

b. individual activities which will not promote interaction for use by children who are in the contagious stages of their disease and by children who are not physically well enough to participate in group activities;

c. toys and equipment which are disposable or able to be sanitized.

3. The day care center for sick children shall maintain a chart for each child. The chart should contain such information as the child's care plan, physical assessment, medical history, admission sheet, medication permit and daily health record. The daily health record shall document the child's condition throughout the day and shall include, but not be limited to:

a. activities—such as the child's state of alertness, behavior, complaints, frequency and length of sleep, rest and play;

b. vital signs—temperature, pulse, respiratory rate;

c. intake—amount of food and liquid consumed;

d. output—number of bowel movements (consistency, color, etc.), number of times vomited (describe), number of wet diapers or trips to the bathroom, etc.;

e. any medications given—administration, dosage and times of.

J. A duplicate copy of the daily health record shall be provided to the parent upon the child's discharge from the sick day care center each day.

K. A sick child care center shall not provide transportation of children except to a medical facility in cases of medical emergency. Any exceptions to this regulation shall require prior approval by the Department of Social Services and must include added provisions as deemed necessary by the department and approved by the physician consultant. The parent or legal guardian must come to the center to release the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20: (October 1994).

§5419. Infectious/Medical Waste Disposal

A. Clothing soiled with stool shall not be washed at the center. Soiled clothes shall be put in sealed plastic bags to be picked up by the child's parent or guardian at the end of the day. Only disposable diapers shall be used unless there is a medical contraindication such as allergies.

B. There are sufficient quantities of facial tissues, paper towels and supplies for handwashing, diapering and cleaning so that they are always available when needed. There are extra linen and mattress covers on hand in case of accidents.

C. Potentially infectious waste materials (kleenex, diapers, bandages and wound dressings, items soiled with blood, etc.) shall be discarded into sealed plastic bags which can be kept out of the reach of children. Needles, syringes or other "sharps" shall be discarded in break resistant, rigid, puncture resistant containers, the openings of which must be tightly closed prior to storage or transport. The openings shall be small enough to prevent an injury resulting from a child sticking his hand into the container. The day care center (known as a small generator of infectious/medical waste) must then transport this container when full to a larger generator (hospital or free-standing clinic) or contract with a licensed hauler.

NOTE: The day care center may wish to develop an agreement to transport their "sharps" container to the physician consultant's office for further disposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20: (October 1994).

Gloria Bryant-Banks
Secretary

9410#048

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

DeSiard Netting Prohibition (LAC 76:VII.173)

The Louisiana Wildlife and Fisheries Commission hereby adopts the following rule prohibiting the use of gill nets and trammel nets in the upper end of Bayou DeSiard located in Ouachita Parish.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 1. Freshwater Sports and Commercial Fishing
§173. Netting Prohibition—Bayou DeSiard

The Wildlife and Fisheries Commission hereby prohibits the use of gill nets and trammel nets in that portion of Bayou DeSiard, Ouachita Parish, bounded on the north by U.S. Highway 165 near Sterlington, and on the south by Shorty Payne Road near Black Bayou.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22(B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 20: (October 1994).

John F. "Jeff" Schneider
Chairman

9410#040

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Reptiles and Amphibians (LAC 76:VII.101)

The Department of Wildlife and Fisheries and Wildlife and Fisheries Commission does hereby establish regulations which govern the collection, captive maintenance, research and management of native species of reptiles and amphibians. The reptile and amphibian harvest program is sustainable and in keeping with wise wildlife management techniques based upon scientific research and evidence.

Title 76
WILDLIFE AND FISHERIES
Part XV. Reptiles and Amphibians
Chapter 1. Guidelines
§101. Recreational and Commercial Harvests; Prohibitions

A. Purpose. These regulations are to govern the collection, captive maintenance, research and management of native and certain exotic species of reptiles and amphibians. Consistent with the constitutional authority and legislative mandates, the Louisiana Wildlife and Fisheries Commission, Louisiana Department of Wildlife and Fisheries and the Louisiana Reptile and Amphibian Task Force support the following guidelines, principles and regulations for collectors, buyers/dealers and scientists handling native species of reptiles and amphibians.

B. General Considerations

1. The living conditions of animals held in captivity at field sites should be appropriate for that species and contribute to their health and well-being. The housing, feeding, and nonmedical care of the animals will be directed by a person trained and experienced in proper care, handling, and use of the species being maintained. Mixed housing is also appropriate for holding or displaying certain species.

2. Individuals of endangered or threatened taxa should neither be removed from the wild (except in collaboration with conservation efforts), nor imported or exported, except in compliance with applicable regulations.

3. Removal from the wild of potentially tending individuals of species known to tend nests should, as a general principle, be avoided during the nesting season unless justified for scientific reasons.

C. Collecting

1. Live-capture techniques should prevent or minimize damage to the animal.

2. Traps should be checked at least daily when weather conditions threaten survival of trapped animals. Investigators must make every effort to prevent trap deaths from exposure, drowning, cardiogenic shock, or capture myopathy.

3. Collecting should always be conducted so as to leave habitat as undisturbed as possible. Permanent removal of more than 50 percent of the animals from any breeding or hibernation aggregation should be avoided unless justified in writing for scientific reasons by the investigator. Similarly, relative large collections of gravid females from any populations for destructive sampling should be avoided unless justified for scientific reasons.

D. Methods of Collection (56:632.6)

1. The use of gasoline, chemicals, or other volatile substances to flush reptiles and amphibians from natural hiding places, nests, or dens is prohibited.

2. The destruction of natural habitats is prohibited. All logs, rocks, stumps, and other natural objects may be turned over or moved, but they must be replaced in their original position upon completion of the collector's inspection.

3. Any trap or other device designed to capture reptiles or amphibians, which remains in the field unattended, must bear a tag with the name, address, and license number of the collector. All such devices must be checked every 24 hours or they must be rendered unworkable during periods of nonuse.

E. Restraint and Handling

1. General Principles. The decision to use physical or chemical restraint of wild amphibians or reptiles should be based upon knowledge of behavior of the animals, and availability of facilities. Collectors and dealers should determine and use the least amount of restraint necessary to do the job in a humane manner. Because amphibians or reptiles, especially venomous species (including those with toxic skin secretions), may be capable of inflicting serious injury either on themselves or those handling them, some form of restraint

often is prudent. Species should not be confined with other species (other than food prey) that they may injure. The well-being of the captive animal is of paramount importance; improper restraint, especially of frightened animals, can lead to major physiological disturbances that can result in deleterious or even fatal consequences.

2. Animals are best handled quietly and with the minimum personnel necessary. Darkened conditions tend to alleviate stress and quiet the animals and are recommended whenever appropriate. When handling large reptiles, netting or maneuvering or dropping them into a bag via hook, tongs, etc., is preferable inasmuch as they may suffer disproportionately great damage while struggling.

F. Housing and Maintenance

1. Normal field maintenance should incorporate, as far as possible, those aspects of natural habitat deemed important to the survival and well-being of the animal. Adequacy of maintenance can be judged, relative to the natural environment, by monitoring a combination of factors such as changes in growth and weight, survival rates, breeding success, activity levels, general behavior, and appearance. Consideration should be given to providing an environment that includes features such as natural materials, refuges, perches, and water baths. Natural foods should be duplicated as closely as possible, as should natural light, moisture, and temperature conditions unless alterations of these are factors under investigation.

2. Frequency of cage cleaning should represent a compromise between the level of cleanliness necessary to prevent disease, and the amount of stress imposed by frequent handling and exposure to unfamiliar surroundings and bedding.

G. Turtle Rules and Regulations

1. *Turtle Trap*—any device constructed with horizontal funnel entrances not positioned in tandem, or opening on the upper surface, with or without attractants, with openings in the upper surface to allow constant functional breathing of any air-breathing captured specimens, designed to attract and/or capture turtles in aquatic habitats.

a. Each trap or device shall be clearly marked as "TURTLE TRAP."

b. Trap or device placement in the water column shall provide continuous breathing opportunities for the captured specimens by having openings in the upper surface to allow functional breathing of the captured specimens.

c. All fish and/or other nontarget species other than watersnakes and salamanders (e.g., amphiumas) shall be released into the wild upon discovery or within 24 hours, whichever comes first.

d. Possession of finfish in the field while engaging in the commercial turtle trapping operations shall be prohibited.

e. A Reptile and Amphibian Collector's License is required to sell turtles or other reptiles and/or amphibians captured with legal commercial fishing gear or by other legal methods.

2. Alligator Snapping Turtle (*Macroclemys temmincki*)

a. Size Limit

i. Commercial take: all turtles shall be 15 inches carapace length or greater (all turtles less than 15 inches shall be released at the time of capture).

(a). Reptile and Amphibian Collector's License is required as provided in 56:632.4 ($25).

(b). Holder of a collector's license shall not possess turtles less than 15 inches carapace length by claiming provisions of G.2.a.ii.

(c). Carapace length measures the straight line distance along the midline of the carapace.

ii. Recreational take: no size limit. Basic recreational fishing license is required as provided in 56:632.1.

iii. Reptile and Amphibian Wholesale/Retail Dealer's License is required as provided in 56:632.5.

(a). Mandatory records include weights and carapace length measurements recorded by reptile and amphibian wholesale/retail dealer at the time of purchase; to be available for department inspection upon demand.

(b). Size restriction and measuring equipment effective for a three year period (January 1, 1995 - December 31, 1998); following that period an evaluation of size limit shall be evaluated by the department.

b. Possession Limit

i. Recreational take: four per day per person.

ii. Commercial take: no limit on numbers taken.

H. Green Anole Rule. It shall be illegal to sell or purchase any Green Anole (*Anolis carolinesis*) with a snout-vent length of less than 1¾ inches or an overall length of less than 5 inches with the tail intact.

I. Checklist of native or established amphibians and reptiles of Louisiana as listed by Dundee and Rossman, 1989, *The Amphibians and Reptiles of Louisiana*, LSU Press.

1. Salamanders

Spotted Salamander	(*Ambystoma maculatum*)
Marbled Salamander	(*Ambystoma opacum*)
Mole Salamander	(*Ambystomatalpoideum*)
Small-mouthed Salamander	(*Ambystoma texanum*)
Eastern Tiger Salamander	(*Ambystoma tigrinum tigrinum*)
Two-toed Amphiuma	(*Amphiuma means*)
Three-toed Amphiuma	(*Amphiuma tridactylum*)
Spotty Dusky Salamander	(*Desmognathus fuscus conanti*)
Southern Dusky Salamander	(*Desmognathus auriculatus*)
Southern Two-lined Salamander	(*Eurycea cirrigera*)
Three-lined Salamander	(*Eurycea longicauda guttolineata*)
Dwarf Salamander	(*Eurycea quadridigitata*)
Four-toed Salamander	(*Hemidactyliumscutatum*)
Slimy Salamanders	(*Plethodon glutinosus* complex)*
Southern Red-backed Salamander	(*Plethodon serratus*)
Webster's Salamander	(*Plethodon websteri*)
Gulf Coast Mud Salamander	(*Pseudotriton montanus flavissimus*)
Southern Red Salamander	(*Pseudotriton ruber vioscai*)
Gulf Coast Waterdog	(*Necturus beyeri*)

Red River Waterdog	(*Necturus maculosus louisianensis*)
Central Newt	(*Notophthalmus viridescens louisianensis*)
Western Lesser Siren	(*Siren intermedia nettingi*)

* *Plethodon glutinosus* includes *P. mississippi* and *P. kisatchie* which can be distinguished only by biochemical methods.

2. Toads and Frogs

Dwarf American Toad	(*Bufo americanus charlesmithi*)
Oak Toad	(*Bufo quercicus*)
Southern Toad	(*Bufo terrestris*)
Gulf Coast Toad	(*Bufo valliceps*)
Fowler's Toad	(*Bufo woodhousii fowleri*)
Northern Cricket Frog	(*Acris crepitans crepitans*)
Southern Cricket Frog	(*Acris gryllus gryllus*)
Bird-voiced Treefrog	(*Hyla avivoca*)
Cope's Gray Treefrog	(*Hyla chrysoscelis*)
Greater Gray Treefrog	(*Hyla versicolor*)
Green Treefrog	(*Hyla cinerea*)
Northern Spring Peeper	(*Hyla crucifer crucifer*)
Pine Woods Treefrog	(*Hyla femoralis*)
Barking Treefrog	(*Hyla gratiosa*)
Squirrel Treefrog	(*Hyla squirella*)
Ornate Chorus Frog	(*Pseudacris ornata*)
Strecker's Chorus Frog	(*Pseudacris streckeri*)
Upland Chorus Frog	(*Pseudacris triseriata feriarum*)
Greenhouse Frog	(*Eleutherodactylus planirostri*) established exotic
Eastern Narrow-mouthed Frog	(*Gastrophryne carolinensis*)
Eastern Spadefoot	(*Scaphiopus holbrookii holbrookii*)
Hurter's Spadefoot	(*Scaphiopus holbrookii hurterii*)
Southern Crawfish Frog	(*Rana areolata areolata*)
Dusky Gopher Frog	(*Rana areolata sevosa*)
Bullfrog	(*Rana catesbeiana*)
Bronze Frog	(*Rana clamitans clamitans*)
Pig Frog	(*Rana grylio*)
Pickerel Frog	(*Rana palustris*)
Southern Leopard Frog	(*Rana sphenocephala*)

3. Turtles

Common Snapping Turtle	(*Chelydra serpentina serpentina*)
Alligator Snapping Turtle	(*Macroclemys temminckii*)
Southern Painted Turtle	(*Chrysemys picta dorsalis*)
Eastern Chicken Turtle	(*Deirochelys reticularia reticularia*)
Western Chicken Turtle	(*Deirochelys reticularia miaria*)
Mississippi Map Turtle	(*Graptemys kohnii*)
Ringed Map Turtle	(*Graptemys oculifera*)
Ouachita Map Turtle	(*Graptemys pseudogeographica ouachitensis*)
Sabine Map Turtle	(*Graptemys pseudogeographica sabinensis*)
Alabama Map Turtle	(*Graptemys pulchra*)
Mississippi Diamondback Terrapin	(*Malaclemys terrapin pileata*)
River Cooter	(*Pseudemys concinna* complex)
Florida Cooter	(*Pseudemys floridana* complex)
Gulf Coast Box Turtle	(*Terrapene carolina major*)
Three-toed Box Turtle	(*Terrapene carolina triunguis*)
Ornate Box Turtle	(*Terrapene ornata ornata*)
Red-eared Slider	(*Trachemys scripta elegans*)
Mississippi Mud Turtle	(*Kinosternon subrubrum hippocrepis*)
Razor-backed Musk Turtle	(*Sternotherus carinatus*)
Stripe-necked Musk Turtle	(*Sternotherus minor peltifer*)
Stinkpot	(*Sternotherus odoratus*)
Gopher Tortoise	(*Gopherus polyphemus*)
Midland Smooth Softshell	(*Apalone mutica mutica*)
Gulf Coast Smooth Softshell	(*Apalone mutica calvata*)
Gulf Coast Spiny Softshell	(*Apalone spinifera aspera*)
Pallid Spiny Softshell	(*Apalone spinifera pallida*)

4. Lizards

Eastern Slender Glass Lizard	(*Ophisaurus attenuatus longicaudus*)
Western Slender Glass Lizard	(*Ophisaurus attenuatus attenuatus*)
Eastern Glass Lizard	(*Ophisaurus ventralis*)
Mediterranean Gecko	(*Hemidactylus turcicus turcicus*) established exotic
Green Anole	(*Anolis carolinensis*)
Southern Fence Lizard	(*Sceloporus undulatus undulatus*)
Northern Fence Lizard	(*Sceloporus undulatus hyacinthinus*)
Southern Coal Skink	(*Eumeces anthracinus pluvialis*)
Five-lined Skink	(*Eumeces fasciatus*)
Southeastern Five-lined Skink	(*Eumeces inexpectatus*)
Broad-headed Skink	(*Eumeces laticeps*)
Southern Prairie Skink	(*Eumeces septentrionalis qobtusirostris*)

Ground Skink	(*Scincella lateralis*)
Six-lined Racerunner	(*Cnemidophorus sexlineatus sexlineatus*)

5. Snakes

Midwest Worm Snake	(*Carphophis amoenus helenae*)
Western Worm Snake	(*Carphophis amoenus vermis*)
Northern Scarlet Snake	(*Cemophora coccinea copei*)
Buttermilk Racer	(*Coluber constrictor anthicus*)
Black-masked Racer	(*Coluber constrictor latrunculus*)
Tan Racer	(*Coluber constrictor etheridgei*)
Eastern Yellow-bellied Racer	(*Coluber constrictor flaviventris*)
Southern Black Racer	(*Coluber constrictor priapus*)
Mississippi Ringneck Snake	(*Diadophis punctatus stictogenys*)
Great Plains Rat Snake	(*Elaphe guttata emoryi*)
Corn Snake	(*Elaphe guttata guttata*)
Black Rat Snake	(*Elaphe obsoleta obsoleta*)
Texas Rat Snake	(*Elaphe obsoleta lindheimeri*)
Western Mud Snake	(*Farancia abacura reinwardtii*)
Rainbow Snake	(*Farancia erytrogramma erytrogramma*)
Eastern Hognose Snake	(*Heterodon platyrhinos*)
Prairie Kingsnake	(*Lampropeltis calligaster calligaster*)
Mole Kingsnake	(*Lampropeltis calligaster rhombomaculata*)
Speckled Kingsnake	(*Lampropeltis getulus holbrooki*)
Louisiana Milk Snake	(*Lampropeltis triangulum amaura*)
Scarlet Kingsnake	(*Lampropeltis triangulum elapsoides*)
Eastern Coachwhip	(*Masticophis flagellum flagellum*)
Gulf Salt Marsh Snake	(*Nerodia clarkii clarkii*)
Western Green Water Snake	(*Nerodia cyclopion*)
Yellow-bellied Water Snake	(*Nerodia erythrogaster flavigaster*)
Blotched Water Snake	(*Nerodia erythrogaster transversa*)
Broad-banded Water Snake	(*Nerodia fasciata confluens*)
Diamond-backed Water Snake	(*Nerodia rhomobifer rhombifer*)
Midland Water Snake	(*Nerodia sipedon pleuralis*)
Rough Green Snake	(*Opheodrys aestivus*)
Black Pine Snake	(*Pituophis melanoleucus lodingi*)
Louisiana Pine Snake	(*Pituophis melanoleucus ruthveni*)
Graham's Crayfish Snake	(*Regina grahamii*)
Delta Glossy Crayfish Snake	(*Regina rigida deltae*)
Western Glossy Crayfish Snake	(*Regina rigida sinicola*)
Pine Woods Snake	(*Rhadinaea flavilata*)
Marsh Brown Snake	(*Storeria dekayi limnetes*)
Texas Brown Snake	(*Storeria dekayi texana*)
Midland Brown Snake	(*Storeria dekayi wrightorum*)
Florida Red-bellied Snake	(*Storeria occipitomaculata obscura*)
Southeastern Crowned Snake	(*Tantilla coronata*)
Flat-headed Snake	(*Tantilla gracilis*)
Western Ribbon Snake	(*Thamnophis proximus proximus*)
Gulf Coast Ribbon Snake	(*Thamnophis proximus orarius*)
Eastern Ribbon Snake	(*Thamnophis sauritus sauritus*)
Eastern Garter Snake	(*Thamnophis sirtalis sirtalis*)
Rough Earth Snake	(*Virginia striatula*)
Western Smooth Earth Snake	(*Virginia valeriae elegans*)
Eastern Coral Snake	(*Micrurus fulvius fulvius*)
Texas Coral Snake	(*Micrurus fulvius tenere*)
Southern Copperhead	(*Agkistrodon contortrix contortrix*)
Western Cottonmouth	(*Agkistrodon piscivorus leucostoma*)
Eastern Diamondback Rattlesnake	(*Crotalus adamanteus*)
Canebrake Rattlesnake	(*Crotalus horridus atricaudatus*)
Western Pygmy Rattlesnake	(*Sistrurus miliarius streckeri*)

6. Alligator

American Alligator	(*Alligator mississippiensis*)

J. Restricted Amphibians and Reptiles

1. The species listed below are deemed to be especially sensitive to overcollection in the state of Louisiana because of low population levels and/or limited ranges (according to Dundee and Rossman, 1989, *The Amphibians and Reptiles of Louisiana*, LSU Press, and any pertinent subsequent scientific literature). Collection of these species from the wild in Louisiana for commercial or personal purposes is hereby prohibited. Scientific collecting of these species will be allowed by permit under the following conditions:

a. one voucher specimen of these species per site may be collected to document range extensions or confirm the

current occurrence of a species suspected to have been extirpated at a site (i.e. not collected in the past 20 years); collecting more than one specimen of these species shall require written justification submitted to and approved by Department of Wildlife and Fisheries, the approved number then being indicated on the permit;

b. up to five individuals of these species found dead may be salvaged;

c. any number of individuals of these species may be captured, processed (i.e. measured, marked, tissue samples taken by means deemed acceptable by Department of Wildlife and Fisheries, etc.) and released alive where originally found as part of a legitimate scientific study.

2. As more information concerning the status of these and other amphibians and reptiles becomes available, species may be removed from or added to this list.

3. List of Restricted Amphibians and Reptiles

Ambystoma tigrinum—tiger salamander
Plethodon serratus—southern red-backed salamander
Plethodon websteri—Webster's salamander
Pseudotriton montanus—mud salamander
Pseudotriton ruber—red salamander

4. List of Threatened or Endangered Amphibians and Reptiles. In addition to those listed above, the following species are listed as threatened or endangered in Louisiana (LAC 76:I.317) and may not be collected.

Chelonia mydas—green sea turtle
Eretmochelys imbricata—hawksbill sea turtle
Lepidochelys kempii—Kemp's ridley sea turtle
Dermochelys coriacea—leatherback sea turtle
Caretta caretta—loggerhead sea turtle
Gopherus polyphemus—gopher tortoise
Graptemys oculifera—ringed sawback turtle

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:632.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 20: (October 1994).

The regulations governing the reptile and amphibian harvest program may be viewed at the Wildlife and Fisheries Headquarters, 2000 Quail Drive, Baton Rouge, LA, phone (504)765-2811.

John F. "Jeff" Schneider
Chairman

9410#039

NOTICES OF INTENT

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Boll Weevil Eradication (LAC 7:XV.9901-9925)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Boll Weevil Eradication Commission, intends to adopt rules and regulations concerning Boll Weevil, LAC 7:XV, Chapter 99. No preamble regarding these rules is available.

Title 7
AGRICULTURE AND ANIMALS
Part XV. Plant Protection and Quarantine
Chapter 99. Boll Weevil

§9901. Applicability of Regulations

These regulations are adopted pursuant to the authority granted in and for the purposes as stated in the Louisiana Boll Weevil Eradication Law, R.S. 3:1601-1616.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 21:

§9903. Definitions Applicable to Boll Weevil

APHIS—the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

ASCS—the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

Compliance Agreement—a written agreement between the department and any person engaged in growing, dealing in or moving regulated articles wherein the latter agrees to comply with specified provisions to prevent dissemination of the boll weevil.

Cotton Acre—any acre of land devoted to the growing of cotton, regardless of row width or planting pattern.

Gin Trash—all material produced during the cleaning and ginning of seed cotton, bollies or snapped cotton, except lint, cottonseed or gin waste.

Penalty Fee—the fee assessed against a cotton producer for late reporting of acreage, underreporting of acreage or late payment of assessments. It does not refer to the assessment fee itself nor to any penalty assessed for any violation of the regulations.

Premises—any parcel of land, including any buildings located thereon, irrigation systems and any other similar locations where the boll weevil is, may be, or where conditions are conducive to supporting the boll weevil.

Seed Cotton—cotton as it comes from the field prior to ginning.

Used Cotton Equipment—any equipment used previously to harvest, strip, transport or process cotton.

Waiver—a written authorization which exempts a person from compliance with one or more requirements of these regulations and the Boll Weevil Eradication Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 21:

§9905. Regulated Articles

The following articles shall be regulated:

1. the boll weevil;
2. cotton plants and bolls;
3. gin trash;
4. seed cotton;
5. used cotton equipment;
6. any other products, articles, means of conveyance, or any other item or thing whatsoever which presents the possibility of spreading the boll weevil.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 21:

§9907. Conditions Governing Movement and Handling of Regulated Articles

A. Certificate, Permit or Written Waiver Required

1. Regulated articles moving into, within or from the state of Louisiana shall be accompanied by a certificate or permit issued by an authorized regulatory official in the state where such articles originated, if such state is other than Louisiana, or by the commissioner.

2. Regulated articles may be moved into, within or from the state of Louisiana without a certificate or permit, if accompanied by documentation confirming the point of origin and a written waiver from the commissioner indicating that such movement is consistent with the boll weevil eradication program.

3. The certificate, permit or a written waiver shall be attached securely to the outside of the container in which the regulated articles are moved; or the certificate, permit or written waiver shall be attached to the shipping document, provided the document adequately describes the regulated articles being moved. Copies of all certificates, permits or written waivers shall be furnished by the carrier to the consignee at the final destination.

B. Issuance of Certificates and Permits

1. Certificates for movement of regulated articles may be issued by the commissioner when such articles:

a. originated in noninfested premises in an eradication zone and have not been otherwise exposed to infestation; or

b. have been treated to destroy infestation in accordance with procedures approved by the commissioner; or

c. have been grown, manufactured, stored or handled in such a manner that, in the judgement of the commissioner, no infestation would be transmitted; or

d. have been examined by the commissioner and found free from infestation.

2. Permits for movement of noncertified regulated articles may be issued by the commissioner allowing movement of such articles into, within or from the state of Louisiana in accordance with procedures approved by the commissioner, when the commissioner has determined that movement will not result in the spread of the boll weevil.

C. Granting, Cancellation and Proof of Certificates, Permits and Written Waivers

1. The granting of certificates, permits or written waivers by the commissioner is purely discretionary and any person claiming movement under the terms of a certificate, permit or written waiver shall have the burden of proof as to the issuance of any such certificate, permit or written waiver and any other related matter.

2. Any certificate, permit or written waiver may be cancelled by the commissioner for good cause, including but not limited to, a determination that the holder thereof has failed to comply with any condition for the use of such certificate, permit, written waiver or with any terms or conditions of a compliance agreement or has obtained a certificate, permit or written waiver on falsified information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 21:

§9909. Compliance Agreements

A. The commissioner may, as a condition of issuance of certificates, permits or written waivers, require a compliance agreement stipulating expressed conditions of the certificate, permit or written waiver as required by the commissioner which may include but are not limited to:

1. safeguards against the establishment and spread of the boll weevil;

2. maintenance of identity, handling and subsequent movement of regulated articles;

3. requirements for cleaning and treating all means of conveyance and all containers used for transporting regulated articles;

4. any other condition deemed consistent with the purposes of the boll weevil eradication program.

B. Any compliance agreement may be cancelled by the commissioner for good cause, including but not limited to a finding that the holder has failed to comply with any conditions of the agreement, and the commissioner may do so summarily and *ex parte* if he finds that public health, safety or welfare requires emergency action. Any compliance agreement may be cancelled or voided by the commissioner upon a determination that the compliance agreement is no longer consistent with the purposes of the boll weevil eradication program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 21:

§9911. Inspection, Movement and Enforcement

The commissioner is authorized to stop any person and inspect any regulated article or means of conveyance moving into, within or from the state of Louisiana when he has reason to believe that such regulated article or means of conveyance is infested with the boll weevil. The commissioner is authorized to issue a stop order on, seize or treat any regulated article found to be infested with the boll weevil moving in violation of the Boll Weevil Eradication Law or these regulations and may destroy or otherwise dispose of any infested cotton where the destruction of said cotton is necessary to effectuate the purposes of the boll weevil eradication program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 21:

§9913. Purchase and Destruction of Cotton to Effectuate Program Objectives

A. When the commissioner deems the purchase of cotton necessary to effectuate the purposes of the boll weevil eradication program he shall make a written determination to purchase.

1. The written determination to purchase shall contain the reasons for the determination, the purchase price, and shall be mailed to or served upon the cotton producer.

2. The cotton producer shall promptly take all steps necessary to convey title to the commissioner. In the event the cotton producer fails to take all steps necessary to convey title to the commissioner within 10 days of receipt of determination to purchase, the commissioner may destroy the cotton, compensating the cotton producer for the purchase price less the loss of the resale price and cost of destruction. The purchase price shall be determined by appraisal, the appraisal shall have been completed within 72 hours of the mailing or issuance for service of the written determination to purchase, and the appraisal shall, to the extent practical, utilize the ASCS farm-established yield for the current year.

3. If the cotton producer does not accept the purchase price contained in the written determination to purchase, the purchase shall, nevertheless, be concluded as described herein but the cotton producer shall have the right to an appeal in the form of a hearing on the decision of price before the commission in accordance with the Louisiana Administrative Procedure Act provided the appeal is perfected in writing to the commissioner within 30 days of the receipt by the cotton producer of the written determination to purchase. The appeal shall contain a concise statement of the basis for the appeal, shall have attached a clear and readable copy of the written determination to purchase, and shall be mailed to or served upon the commissioner within the aforesaid prescribed time limit of 30 days.

B. Whenever the commissioner has reason to believe that the destruction of cotton is necessary to effectuate the purposes of the boll weevil eradication program he shall make a written determination of destruction.

1. The written determination of destruction shall contain the reason for the destruction, the payment to the cotton producer, if applicable, and shall be mailed to or served upon the cotton producer. The cotton producer shall take all steps necessary to cooperate with the commissioner in the destruction of the cotton. In the event the cotton producer fails to take all steps necessary to cooperate in the destruction of the cotton, the cotton producer shall be in violation of these regulations.

2. In those cases where payment to the cotton producer shall be due by the commissioner, the amount of payment shall be determined by appraisal, the appraisal shall have been completed within 72 hours of the mailing or issuance for service of the written determination of destruction, and the appraisal shall, to the extent practical, utilize the ASCS farm-established yield for the current year. If the cotton producer does not accept the payment contained in the written determination of destruction, the payment shall, nevertheless, be made as stated but the cotton producer shall have the right to an appeal in the form of a hearing on the amount of the payment before the commission in accordance with the Louisiana Administrative Procedure Act provided the appeal is perfected in writing to the commissioner within 30 days of the receipt by the cotton producer of the written determination of destruction. The appeal shall contain a concise statement of the basis for the appeal, shall have attached a clear and readable copy of the written determination of destruction, and shall be mailed to or served upon the commissioner within the aforesaid prescribed time limit of 30 days.

3. The notice provisions contained herein are in addition to those notice provisions contained in R.S. 3:1609(E).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1610.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 21:

§9915. Quarantine: Authority and Procedures

A. The commissioner is hereby authorized to issue Quarantine Orders to affected parties whenever he determines that a quarantine is necessary to effectuate the purposes of the boll weevil eradication program.

B. Quarantine Orders shall be written and shall describe with particularity the regulated articles or premises being quarantined, the nature of the restrictions on the regulated articles or premises, the reasons for the issuance of the Quarantine Order and the method for affected parties to seek a review of the order.

C. A Quarantine Order shall be issued for the purpose of preventing the movement, disturbance, or noncontainment of an actual or suspected boll weevil infestation or the prevention of a boll weevil infestation.

D. Any affected party may request and receive a hearing on the issuance and maintenance of a Quarantine Order before the commission in accordance with the Louisiana Administrative Procedure Act provided the affected party requests the hearing within 30 days of receipt by the affected party of notice of the Quarantine Order.

E. The notice provisions contained in this section are in addition to those notice provisions contained in R.S. 3:1609(E).

F. All persons and all parties affected by a quarantine shall

cooperate in the affectation of the quarantine and shall do nothing to cause a breech of the terms of the Quarantine Order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 21:

§9917. Aiding and Abetting

Any person who aids and abets another person in any act or omission which constitutes a violation of the Boll Weevil Eradication Law or these regulations shall be in violation of the Boll Weevil Eradication Law and these regulations. Each act or omission of aiding and abetting shall be a separate offense and each day on which the underlying violation which was aided and abetted occurs shall also be a separate offense, but two violations may not result from one act or omission which occurred on a single day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1612.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 21:

§9919. Reporting of Cotton Acreage

A. All cotton producers growing cotton in the state of Louisiana shall complete a Cotton Acreage Reporting Form provided by the commissioner by April 15 or at sign-up of the current growing season, and shall submit the completed form to the ASCS office responsible for the parish or parishes in which they produce cotton. Such report shall be filed for each year of the program and shall include the intended acreage and location of cotton to be planted during the current growing season.

B. All cotton producers growing cotton in the state of Louisiana shall also complete a Cotton Acreage Reporting Form provided by the commissioner by the later of July 1 or at final certification of the current growing season, and shall submit the completed form to the ASCS office responsible for the parish or parishes in which they produce cotton. Such report shall be filed for each year of the program and shall include the actual acreage and location of cotton planted during the current growing season.

C. Noncommercial cotton shall not be planted in the state unless an application for a written waiver has been submitted in writing to the commissioner stating the conditions under which such written waiver is requested, and unless such written waiver is granted by the commissioner. The commissioner's decision to grant or deny a written waiver for noncommercial cotton shall include consideration of the location, size, pest conditions, accessibility of the growing area, any stipulations set forth in any compliance agreement between the applicant and the commissioner, and any other factors deemed relevant to effectuate the boll weevil eradication program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1607, 1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 21:

§9921. Program Participation, Fee Payment and Penalties

Upon passage of the referendum, all cotton producers growing cotton in an eradication zone shall be required to participate in the eradication program as follows:

1. Each year, during the first five years of the program, cotton producers shall submit to the ASCS office the annual assessment as set by the commission following the adjudicatory procedure of the Administrative Procedure Act, which assessment shall not exceed $25 per acre, for each acre of certified cotton acreage on file with ASCS. The assessment shall be paid to the commission by the later of July 1 or final certification of the current growing season. ASCS shall promptly forward all collected assessments to the commission.

a. Any cotton producer planting a fraction of an acre shall be assessed at a prorated assessment rate for that fractional acre.

b. Any cotton producer failing to file a completed Cotton Acreage Reporting Form by the later of July 1 or final certification of the current growing season shall, in addition to the assessment fee and other penalties provided in the Boll Weevil Eradication Law and these regulations, be subject to a penalty fee of $2 per acre.

c. Any cotton producer failing to pay all assessments by the later of July 1 or final certification of the current growing season shall, in addition to the assessment fee and other penalties provided in the Boll Weevil Eradication Law and these regulations, be subject to a penalty fee of $3 per acre.

d. Beginning with the second year of the program and continuing for subsequent years, any cotton producer whose ASCS certified acreage exceeds his reported acreage by more than 10 percent shall, for each ASCS certified acre in excess of that reported, be subject to a penalty fee of $5 per acre in addition to the assessment fee, payable on or before September 1 of the current growing season.

e. Failure to pay all program costs, including assessments and penalty fees shall be a violation of these regulations. Any cotton growing on a cotton producer's acreage which is subject to the assessment shall be subject to destruction by the commissioner should said cotton producer fail to pay all program costs, including assessments and penalty fees, within 30 days of notification of the default.

2. The commission shall have the right to collect some or all of the program costs, including assessments and penalty fees, by contracting with another entity, public or private, for assessment collection. All cotton producers in an eradication zone shall be notified of such a decision by the commission.

3. Cotton producers shall destroy cotton stalks in every field location planted to cotton, on or before December 31 of each year. Cotton stalk destruction shall consist of shredding or disking to the extent of eliminating standing cotton stalks. Failure to destroy stalks by December 31 of each year shall be a violation of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, 1612, 1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 21:

§9923. Expenditures

Expenditures, by the commissioner and the commission, for any and all costs related to the eradication of boll weevils shall be accomplished employing the procedures authorized and granted to the Louisiana Agricultural Finance Authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1614, 1615.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 21:

§9925. Voter Eligibility

A. A person shall be considered eligible to vote in a referendum if that individual shared in the cotton crop, or in the proceeds of the cotton crop, actually produced during the crop year in which the referendum is held. When in compliance with the above requirements the following shall be eligible to vote in a referendum:

1. farm operator;
2. owner-operator;
3. cash tenant;
4. landlord of a share tenant;
5. share tenant;
6. landlord of a cash tenant;
7. sharecropper.

B. A person shall not be eligible to vote in a referendum if that individual is under 18 years of age.

C. Voting by proxy, agent, or power of attorney is prohibited.

D. Each eligible voter shall be entitled to only one vote in each referendum.

E. The commission shall determine any questions of eligibility to vote.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 21:

Persons interested in making comments relative to this notice may do so in writing by December 1 to Tad N. Hardy, Administrative Coordinator, or Craig M. Roussel, Director, Horticulture and Quarantine Programs, Box 3118, Baton Rouge, LA 70821-3118. They are responsible for responding to inquiries regarding these proposed rules.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Boll Weevil Eradication

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

Following the passage of a referendum, the cost to state governmental units is $110,700,000 over a five-year period. All costs to establish and operate the program will be paid from producer assessments and Federal participation. Federal participation is anticipated to include at least $7 million in capitalized equipment.

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

The estimated effect on revenue collections of state governmental units is $110,700,000. This estimate is based upon a $25 per acre per year assessment over the five-year lifetime of the program. The estimate assumes approximately 880,000 acres of cotton each year resulting in revenue collections of approximately $22 million per year.

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

The estimated cost to directly affected persons is $110,700,000. This estimate is based upon a $25 per acre per year assessment over the five-year lifetime of the program. The estimate assumes approximately 880,000 acres of cotton each year resulting in revenue collections of approximately $22 million per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition. A maximum of 1,550 new jobs will be created at the time the program is in existence. These will be a combination of full-time year-round, full-time seasonal, and part-time jobs. The number of jobs will decrease over the life of the program.

Richard Allen
Assistant Commissioner
9410#067

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Civil Service
Civil Service Commission

Demotion Pay Reductions, Red Circle Rates, Nonclassified Declared to be Classified, Layoff Pay Reductions

The Civil Service Commission will consider the following changes to the Civil Service Rules.

Amend Rule 6.10 to read as follows:

6.10 Rate of Pay Upon Demotion

Subject to the provisions of Civil Service Rules 6.15 and 17.19, when an employee is demoted for any reason under any circumstances, his pay shall be reduced as follows:

(a) - (d). ...

EXPLANATION

This amendment is proposed to exempt from pay reductions upon demotion, all employees whose demotions occur during layoffs which are not absolutely required because of budgetary cuts. (Also see the related proposed amendment to Rule 17.19).

Rule 6.10 was recently amended [made subject to Rule 6.15(f)] to exempt from pay cuts upon demotion, employees whose pay is above the maximum or above the highest rate within the authorized base supplement of the lower range in layoffs not absolutely required because of budgetary cuts. However, no similar provision was proposed for employees whose salary falls within the range of the lower position in such layoffs. This proposal provides equity for such employees.

Amend Rule 6.15 to read as follows:

6.15 Red Circle Rates

Rates that fall within the range or within the base supplement authorized for a position become the employee's authorized individual pay rate. Excluding those that fall within the base supplement authorized for a position, individual pay rates that fall above the maximum established for the grade become red circle rates; or, under the conditions outlined below in subsection (d) of this rule, individual pay rates that fall above the base supplement authorized for a position become red circle rates. Such red circle rates remain in effect until the range or range plus authorized base supplement for a position catches up with the rate; however, eligibility for a red circle rate is lost upon separation from state service, or demotion except as provided in part (f) of this rule. Individuals whose salary rates are red circled shall not be eligible for any other pay adjustments provided for in the rules. Red circle rates are assigned under the conditions as outlined below:

(a) - (c) ...

(d) When positions are declared to be in the classified service and the employee's current rate of pay falls above the maximum of the range for the grade of the job into which the position(s) are allocated, or above the range plus base supplement authorized for the position allocated. A red circle rate given as a result of an acquisition of a position under civil service rule 8.27 shall be treated in the following manner:

1. After two years, should the red circle rate of pay exceed the maximum rate of pay of the job to which the position is allocated by over 28 percent, the red circle rate shall be reduced to a figure not more than 28 percent above the aforementioned maximum or to the maximum of the base supplement, whichever is higher.

2. A red circle rate reduced under (d) 1 above may not be reinstated under subsection (g) below.

(e) When the employee's pay exceeds the maximum of an approved market grade.

(f) When an employee is subject to a demotion in a layoff, and the layoff was not absolutely required because of budgetary cuts, except that the pay upon demotion in such a layoff for an employee whose current pay rate within the base supplement exceeds the range or the range plus authorized base supplement for the position to which he is to demote shall be set no higher than his current salary and at the higher of the following:

1. the range maximum (this is a red circle rate) of the position from which he is to demote; or

2. within the range maximum plus the base supplement (this is not a red circle rate) authorized for the position to which he is to demote.

(g) An appointing authority may request authority from the commission to reinstate red circle rates (except those specified in subsection (d) above) awarded for two years which have expired when the employee's pay continues to be lower than the previously authorized red circle rate. Any approval granted shall be prospective from the date of commission action. Eligibility for reinstatement is lost upon separation from state service or demotion.

(h) Red circle rates in effect on June 8, 1994, the effective date of the amendment to this rule providing for a continuing red circle rate, shall be extended in accordance with the provisions of this rule.

EXPLANATION

Presently, Rule 6.15 allows a red circle rate to exist indefinitely. It is uncertain as to what the salary might be of an individual who is acquired into the classified service under Rule 8.27. Therefore, as a check of the red circle rate, a salary that may be judged extremely excessive will be allowed to exist for a period of only two years and then reduced to 28 percent above the maximum for that job. Twenty-eight percent was chosen because generally, that is the largest red circle rate that would occur for classified employees.

Amend Rule 8.27 to read as follows:

8.27 Status of Nonclassified Employees Whose Positions are Declared to be in the State Classified Service or are Acquired by a State Agency

(a) When a nongovernmental private organization or position, which is not subject to the article, is acquired by a state agency as a result of a legislative act, constitutional amendment, judicial decree, or an executive order, or a government organization or position, which has been created by an executive order of the governor, legislation, constitutional amendment, or a local authority, is declared to be in the state classified service by judicial decree or by order of the commission or director, an employee incumbering an affected position shall be appointed in the state classified service under this rule if:

1. his position is retained by the state agency, and the appointing authority of the agency certifies in writing to the director that the retention is necessary for the continued efficient functioning of the acquiring agency, and such position falls within the state classified service;

2. he is eligible for employment in the classified service;

3. he is either employed in the position or is an employee of the acquired organization and has at least one year of continuous service as of the effective date of the transfer of the position or of the acquired agency to the state classified service provided such effective date shall be the same effective date of the legislation, constitutional amendment, judicial decree, or commission order that initiated the action to classify the position, and in the absence of these directives, as of the date of the director's order;

4. he possesses the minimum requirements established for the class to which his position has been allocated, on the date of the notification to the agency of the original allocation of his position for probationary appointment;

5. he attains a passing score on the appropriate test, within three attempts and six months of the date of notification of the original allocation of his position for probationary appointment, except that after notifying the commission the director may waive the passing of a written examination provided:

a. either an appropriate test is not available or a review of the hiring and personnel practices of the entity indicates testing would be impractical and/or unnecessary; and

b. a review of the person's application and personnel record reveals that he has successfully performed the duties of

the same position for two years; and

c. the appointing authority certifies that his performance has been satisfactory;

d. the director may still require certain employees to meet the testing requirements of (a) 5.

6. Subject to rule 17.3, when an agency acquires employees under 8.27 and a layoff results, it shall neither exempt the acquired employees from a layoff, nor shall the acquisition of these employees prevent the appointment of classified employees from a department preferred reemployment list.

(b) An employee who enters the state classified service in accordance with this rule and who is employed as a classified employee of a governmental jurisdiction subject to a civil service article, statute or ordinance shall be appointed to the state classified service with the same appointment status he attained in the former service and such employee shall be exempt from the requirements in (a) 3 , (a) 4 and (a) 5 above. All other employees who enter the state classified service in accordance with this rule shall be either provisionally or probationally appointed.

(c) An employee who enters the state classified service in accordance with this rule and who is employed with an organization that is being acquired in its entirety for the first time in the classified service may be exempted from the requirements in (a) 3 , (a) 4 and (a) 5 above, provided he occupies the same position with the acquired organization, if so ordered by the director after a review of the hiring and personnel practices of the organization indicates such provisions would be either impractical or unnecessary.

1. When using this provision the director shall notify the commission of his intention to apply it and, after using it, shall file a written report explaining the reasons therefor.

2. The director may still require certain employees to meet the requirements of (a) 4 and (a) 5.

3. An employee acquired under this provision, except for those acquired under subsection (c) 2 above, will be considered to possess the minimum qualifications of the job in which acquired.

(d) An employee who enters the state classified service in accordance with this rule shall have his pay established in accordance with Rule 6.17.

(e) An employee who enters the state classified service in accordance with this rule shall have his leave credits determined as follows:

1. An employee who is employed as a classified employee of a governmental jurisdiction subject to a civil service article, statute or ordinance shall have his annual and sick leave credits assumed by his acquiring agency; provided that only the amount of leave earned minus the amount taken, during the first year of the appointment authorized by the director or commission, may be paid upon separation in that year, except for separations caused by a layoff, medical disability, death or retirement. Upon entering the state classified service, he shall earn and be credited with leave benefits as provided elsewhere in these rules.

2. An employee of the state, so long as an official system of leave earning and use was maintained by the employer, shall have his leave credits determined as provided by Rule 11.19 (d).

3. Any other employee who enters the state classified service in accordance with this rule shall be credited for unused annual and sick leave, not to exceed 240 hours of each, which had been earned by and credited to the employee on the date of his appointment to the state classified service so long as an official system of leave earning and use was maintained by the former employer; provided that only the amount of leave earned minus the amount taken by the employee, during the first year of the appointment authorized by the director or commission, may be paid upon separation in that year, except for separations caused by a layoff, medical disability, death or retirement.

(f) Compensatory time shall not be credited above what is legally required under FLSA to the employee.

(g) When a position brought into the classified service under this rule is title corrected, the employee's pay shall not change, except where an adjustment to the minimum of the range is required. Title correction shall mean a change in the job title of a position, by Civil Service, following the original allocation of a position for purposes of probational appointment under this rule.

(h) An employee who enters the state classified service in accordance with this rule shall have his eligibility for merit increases under Rule 6.14 and leave earning determined based on the original date of appointment with his current or former employer and, upon appointment in the state classified service, shall not be treated as a new employee under the provisions of Rule 6.14.

(i) This rule shall not apply to any employee who is illegally hired in either the state unclassified or state classified service as determined by the commission after investigation by public hearing, or who is hired in the state unclassified service under the provisions of Rule 4.1(d)1, or who is voluntarily seeking employment in the state classified service.

(j) Upon request of an appointing authority and when in its judgement sufficient and compelling reasons to do so have been presented, the commission may apply the provisions of this rule to situations not addressed herein.

(k) The director may order an employee, who is subject to being brought into the state classified service under Rule 8.27, placed on a special provisional appointment as provided by this subsection and such appointment shall:

1. contain the same rights, privileges and status as a provisional appointment, unless otherwise provided by this rule;

2. be provided to allow the completion of the process necessary to determine if the employee may remain in the classified service and what requirements of this rule, and others if applicable, will have to be met; and

3. expire either on probational appointment of the employee, or two years from the date the appointment was made, or upon cancellation by the director.

EXPLANATION

Previously, employees acquired into the classified service under this rule had to take and pass the appropriate Civil Service test. The proposed changes allow Civil Service to examine the personnel hiring practices and policies of the

entity being acquired (corporation, etc.), and if those standards are judged sufficient, the testing may be waived. This will allow a much faster and more efficient procedure for bringing employees into the classified service.

Another primary proposed change is to allow acquired employees to be placed, if necessary, on a special provisional appointment while waiting determinations as to how they will be brought into the classified service. This procedure will expedite placing these employees under the Civil Service rules.

The third major proposal allows for a rapid allocation process and later corrections to allocations without affecting salaries. In the past, the process has been delayed as arguments developed over the appropriate allocations for positions. This change eliminates any financial incentive for these arguments.

Other proposals update the rule to conform to federal law. For example, as the present rule reads, it does not allow any compensatory leave to be brought into the classified service. This would be a violation of the Fair Labor Standards Act. Other lesser proposals seek to eliminate numerous procedural difficulties we have had in implementing Rule 8.27.

Amend Rule 17.19 to read as follows:

17.19 Pay Reductions in Layoffs

(a) Layoffs Not Absolutely Required Because of Budgetary Cuts

No pay reductions shall occur when employees are placed in lower pay ranges in layoffs not absolutely required because of budgetary cuts. This includes those employees whose pay rates fall above the maximum or above the highest rate within the authorized base supplement of the lower range, as provided for in Rule 6.15(f).

(b) Layoffs Absolutely Required Because of Budgetary Cuts

In layoffs absolutely required because of budgetary cuts, the percentage of pay reductions resulting from employees being placed in lower pay ranges shall be uniform, unless a written request with justification is approved by the director. Such reductions shall not result in an employee's being paid above the maximum or above the highest rate within the authorized base supplement or below the minimum of the range for the position to which he is moved.

EXPLANATION

This amendment provides for two different ways to handle pay when employees move to lower pay ranges during layoffs, based on the cause of the layoff, as follows: 1) Pay reductions would occur only when a layoff is absolutely required because of budgetary cuts. These would have to result in the employee's pay being reduced to a rate within the lower range. 2) No pay reductions would occur when employees are placed in lower pay ranges in layoffs that are not absolutely required because of budgetary cuts. This includes those employees whose pay rates fall above the maximum or the base supplement of the lower range, as provided for in Rule 6.15(f).

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the Director of Civil Service, Box 94111, Baton Rouge, LA 70804-9111.

The Civil Service Commission will hold a public hearing on Wednesday, November 16, 1994 to consider amendments to Civil Service Rules 6.10, 6.15, 8.27, and 17.19. The hearing will begin at 9 a.m., at the Department of Civil Service, Second Floor, Commission Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA. If any special accommodations are needed, please notify us prior to this meeting.

Herbert L. Sumrall
Director

9410#026

NOTICE OF INTENT

Department of Economic Development
Board of Examiners of Certified Shorthand Reporters

Certificates (LAC 46:XXI.513, 515, 517)

Under authority of R.S. 37:2554 and with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters is amending Part XXI of the Louisiana Administrative Code. This rule requires the court reporter to disclose and preserve on the record any arrangements, financial or otherwise, with a party requesting the court reporter's services. The reporter shall be responsible for inquiring and discovering such information before accepting assignment. The rule also requires the reporter to attest to the accuracy of every transcript by dating, signing, and sealing a certification page containing certain language. This rule also requires the reporter to offer any work product to all parties at the same time offered to other parties.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXI. Certified Shorthand Reporters
Chapter 5. Certificates

§513. Disclosure

Each certified court reporter shall disclose and preserve on the record at the outset of every deposition the complete arrangement, financial or otherwise, made between the reporter or any person or entity making arrangements for the reporter's services and the attorney or other party making such arrangements with the reporter, person, or entity. Each reporter is responsible for inquiring about and discovering such information before accepting any assignment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and R.S. 37:2557.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 21:

§515. Certification of Transcript

A. Each certified court reporter shall attest to the accuracy of every transcript prepared by that reporter by dating,

signing, and sealing a certification page containing substantially the following language:

This certification is valid only for a transcript accompanied by my original signature and original raised seal on this page.

I, [reporter's name], Certified Court Reporter in and for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that [name of person(s) to whom oath was administered], after having been duly sworn by me upon authority of R.S. 37:2554, did testify as hereinbefore set forth in the foregoing [number of] pages; that this testimony was reported by me in the [stenotype; stenomask; penwriter; electronic] reporting method, was prepared and transcribed by me or under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding; that I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this matter.

B. No certified court reporter shall execute the foregoing certification without having first reviewed and approved as to the accuracy of the transcript to which such certification is attached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and R.S. 37:2557.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 21:

§517. Comparable Services

A reporter shall offer any work product to all parties and counsel at the same time as it is offered to any other party or counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and R.S. 37:2557.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 21:

Public hearings will be held at 10 a.m., November 28, 1994, in the State Building, Office of the Board of Examiners of Certified Shorthand Reporters, 325 Loyola Avenue, Suite 306, New Orleans, Louisiana, 70112. Interested persons are invited to attend and submit oral comments on the proposed rule.

Interested persons may submit written or oral comments to Gay M. Pilié, Executive Director, Board of Examiners of Certified Shorthand Reporters, 325 Loyola Avenue, Suite 306, New Orleans, LA 70112, (504) 523-4306. Comments will be accepted through the close of business on November 29, 1994.

Peter Gilberti
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Certificates (LAC 46:XXI.Chapter 5)

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

There will be no anticipated effect on costs or savings to state governmental units.

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

There will be no anticipated effect on revenue to state governmental units.

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

There will be no anticipated effect on costs to nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no anticipated effect on competition or employment due to the proposed rule.

Peter Gilberti
Secretary
9410#020

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development
Office of Commerce and Industry
Division of Financial Incentives

Gaming Activities Ineligible for Tax Exemption
(LAC 13:I.201)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives is hereby giving notice of its intention to amend and adopt the Board of Commerce and Industry rule: Gaming Activities Ineligible for Tax Exemptions.

The Board of Commerce and Industry, at its August 24, 1994 meeting, adopted rules which affect any person whose principal business is gaming; and, which business is applying for a financial incentive/tax exemption application (i.e.: Enterprise Zone Program, Restoration Tax Abatement Program, or other).

Title 13
ECONOMIC DEVELOPMENT
Part I. Commerce and Industry
Subpart 1. Finance
Chapter 1. Board of Commerce and Industry
§201. Gaming Ineligible

A. Any person whose principal business is gaming shall be ineligible to receive a contract for any tax exemption, credit, rebate or other benefit granted pursuant to this program.

B. The principal business of a person shall be considered to be gaming if more than 50 percent of gross receipts are derived from gaming operations or gaming activities, or from an economic interest in gaming operations or gaming activities, or any combination of the above.

C. The Office of Commerce and Industry shall require any applicant to provide sufficient information so that the principal business of the applicant may be determined from the application. Any application which fails to provide such information and any application which shows that the principal

business of the applicant is gaming shall be returned to the applicant along with the application fee and shall not be presented to the board for consideration.

D. Definitions

Bingo—the game of chance commonly known as bingo or keno played for prizes with cards bearing numbers or other designations, five or more in one line, the holder covering numbers, as objects, similarly numbered, are drawn from a receptacle, and the game being won by the person who first covers a previously designated arrangement of numbers on such a card.

Economic Interest—any interest in a contract, 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.

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 a 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 or racehorse wagering.

Gaming Operations or *Gaming Activities*—

1. the use, operation, offering or conducting of any game or gaming device;

2. the conducting, or directly assisting in the conducting, as a business, of any game, contest, lottery, or contrivance on board a commercial cruiseship used for the international carriage of passengers whereby a person risks the loss of anything of value in order to realize a profit;

3. the intentional conducting or assisting in the conducting of gaming activities upon a riverboat as defined and authorized in R.S. 4:501-4:562, whereby a person risks the loss of anything of value in order to realize a profit;

4. the intentional conducting or assisting in the conducting of gaming operations at the official gaming establishment as defined and authorized in Chapter 10 of Title 4 of the Louisiana Revised Statutes of 1950;

5. the manufacture, assembly or programming of gaming devices for sale or use in this state;

6. the sale, offer to sell, or otherwise furnish to any person, gaming devices for use in this state;

7. the repair, service, inspection, or examination of gaming devices.

Gaming Device—any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine, including but not limited to slot machines or video draw poker devices, used directly or indirectly in connection with gaming or any game which affects the result of a wager by determining wins or losses. The term includes a system for processing information which can alter the normal criteria of random selection, which affects the operation of any game, or which determines the outcome of a game.

Pull-Tabs—single or banded tickets or cards each with its face covered to conceal one or more numbers or symbols, where one or more card or ticket in each set has been designated in advance as a winner.

Racehorse Wagering—wagers placed on horse racing conducted under the pari-mutuel form of wagering at licensed racing facilities that is accepted by a licensed racehorse wagering operator.

Raffle—the game of chance commonly known as raffle or raffles played by drawing for prizes or the allotment of prizes by chance, by the selling of shares, tickets, or rights to participate in such game or games, and by conducting the game or games accordingly.

Slot Machine—any mechanical, electrical, or other device, contrivance, or machine which, upon insertion of a coin, token, or similar object therein or upon payment of any consideration whatsoever, is available to play or operate, the play or 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 cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner.

Video Draw Poker Device—any unit, mechanism, or device authorized pursuant to the provisions of this Part, that, upon insertion of cash, is available to play or simulate the play of the game of draw poker or other card games approved by the division, utilizing a cathode ray tube or video display screen and microprocessors in which the player may win games or credits that can be redeemed for merchandise or cash. The term does not include a device that directly dispenses coins, cash, tokens, or anything else of value, except the ticket voucher required in accordance with the provisions of this Part. The term does not include any device authorized to be used in the conducting of charitable gaming.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:926, 51:1786(6), 47:4319.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 21:

The effective date of this rule is expected to be February 20, 1995. Persons who wish to submit comments should contact Paul Adams, Director of Financial Incentives, Office of Commerce and Industry, Box 94185, 101 France Street, Baton Rouge, LA, 70804; (504) 342-5398. Comments will be accepted through 5 p.m., November 30, 1994.

Harold Price
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Gaming Activities Ineligible for Tax Exemptions

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

The Board of Commerce and Industry has adopted rules which effect any person whose principal business is gaming; and, which business is applying for a financial incentive/tax exemption application. The board will consider ineligible any applicant whose principal business activity is more than 50 percent of gross receipts derived from gaming operations or

gaming activities, or from an economic interest in gaming operations or gaming activities, or any combination of the above.

Any business engaging in, or planning to engage in, a gaming activity must provide the Office of Commerce and Industry with financial statements and/or a five-year business plan. Additional staff time will be required to analyze the financial information to determine the principal business of the applicant. Local government should not incur any additional cost as a result of this rule.

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

Riverboat and casino gaming is a new industry to the state of Louisiana. The investment dollars and new permanent jobs data used to support the tax exemption estimates were derived from newspapers, periodicals, the gaming companies, and various other sources. Some data had to be estimated. Actual sales tax percentages and property tax millage rates were used for the respective locations.

To date, the Office of Commerce and Industry has received 11 Advance Notification forms from companies applying for financial incentive programs. Without the proposed gaming rules, if all riverboats and casinos applied for/and received financial incentives, granted by the Board of Commerce and Industry, the total taxes exempted over 10 years would approximate $191 million. This estimate is based on the following:

1. It is assumed that the one-time Enterprise Zone job tax credit of $2,500 per each new permanent job created would be taxed as a credit against the gaming company's income tax and/or corporate franchise tax liability after the first year of operations. Any balance could be carried forward. Total income tax/corporate franchise tax credits are estimated at $32 million for FY 1994/95, and $13.7 million for FY 1995/96.

2. An estimated $52 million of state sales and use taxes would be refunded during the first two years of operations. State sales and use tax refunds are estimated at $38.4 million for FY 1994/95, and $13.6 million for FY 1995/96. An estimated $14.9 million of local sales and use taxes would be refunded. Local sales and use tax refunds are estimated at $9.5 million for FY 1994/95, and $5.4 million for FY 1995/96. Local property tax exemptions are estimated at $7.3 million for FY 1994/95, $7.3 million for FY 1995/96, and $7.3 million for FY 1996/97.

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

Without the benefit of financial incentive programs, gaming interests will pay taxes to state and local governments, for the 10-year period beginning in 1993, of an estimated at $191 million.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will likely be no effect on employment. Current riverboat, casino, etc. projects which are underway, or planned, would likely proceed without the benefit of financial incentive programs. The proposed rule will impact equally, all businesses whose revenues from gaming operations or gaming activities, are more than 50 percent of gross receipts.

Harold Price
Assistant Secretary
9410#072

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development
Office of Financial Institutions

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

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:1131 et seq., particularly the rulemaking powers authorized by R.S. 6:1141, the commissioner of financial institutions hereby gives notice of his intent to adopt a rule to provide for the regulation and supervision of conversions of Louisiana state-chartered savings banks from mutual to stock form.

The proposed rule will impose several specific requirements upon state-chartered savings banks that apply to convert from a mutual to a stock form of ownership. This rule would:

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

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

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

4. require that those eligible depositors and others forming the converting institution's "local community" be given preference in purchasing shares in the subscription offering;

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

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

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

8. require the price of any stock option grant to be the present market price of the stock when such grant is exercised;

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

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

Additionally, this rule will amend this office's Fees and Assessments Rule, LAC 10:I.110, 201, 203 and 10:V.5101 as

published in LR 19:1546-1548 (December 20, 1993), by providing for a $1,500 fee to convert a mutual savings bank to stock form.

To request a copy of the complete text of the proposed rule, and for all interested persons wishing to submit written comment, please contact John A. Marzullo, Staff Attorney, Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095, phone: (504) 925-4660, or by delivery to 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809. Comments will be accepted through the close of business on November 15, 1994.

A complete copy of the text is also available for inspection at the Office of the State Register, 1051 North Third Street, Baton Rouge LA 70802, phone (504)342-5015.

Larry L. Murray
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Savings Bank Conversions

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

The estimated implementation cost for this regulation will be the final rule publishing expense of $2,600. The agency anticipates no new hardware, employee costs, or professional services will be required to implement this rule.

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

The commissioner has established a fee of $1,500 for each application to convert a state chartered mutual savings bank to a state chartered stock savings bank. It is estimated that the commissioner will process approximately two applications during the initial fiscal year, for fees totalling $3,000, and will process one application each fiscal year thereafter, for fees totalling $1,500 per year.

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

This rule will directly affect those savings banks that apply to convert from a mutual to a stock form. Estimated costs include application costs, legal costs, accounting costs, appraisal costs, broker/underwriter costs, and proxy and other publishing costs. With respect to benefits, this rule will enhance the value of a state savings bank charter by providing an alternative conversion form, thereby enabling the institution additional flexibility in raising capital, meeting its goals and objectives, and affording the opportunity to better serve the citizens of its local community and the state of Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant change in competition or employment in the public or private sector is anticipated. However, the additional conversion powers and flexibility afforded state savings banks will result in added competition to federally chartered thrifts, which enjoy such comparable powers at this time. Therefore, some additional private sector competition and employment may accrue. This will also allow for the creation of additional capital by state savings banks, and perhaps greater opportunities to expand, merge with other financial institutions, etc.

Larry L. Murray
Commissioner
9410#082

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Education
Board of Elementary and Secondary Education

Bulletin 746—Certification Requirements for Health

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:950 et seq., and approved for advertisement, the continuation of current certification requirements in health as specified in Bulletin 746, Louisiana Standards for State Certification of School Personnel.

Prior to this action, effective fall of 1994, teachers pursuing certification in health would be required to complete requirements for health and physical education. Maintaining the current health certification requirements will enable any secondary certified teachers to add this area of certification without physical education courses and will allow greater flexibility for teachers and school systems in providing the ½ unit in health education which is now a high school graduation requirement.

AUTHORITY NOTE: R.S. 17:411.

This policy was also adopted as an emergency rule, effective July 28, 1994.

Interested persons may submit comments until 4:30 p.m., December 9, 1994 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746—Certification Requirements for Health

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

The adoption of this proposed rule will cost the Department of Education approximately $100 (printing and postage) to disseminate the policy. BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately $70. Funds are available.

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

The proposed rule will have no effect on revenue collection.

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

Maintaining the current health certification will continue to enable any secondary certified teachers to add certification in health without also completing the physical education courses required for the combination health and physical education certification.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action will enable more teachers to become certified and available for employment to teach health.

Marlyn Langley
Deputy Superintendent
for Management and Finance
9410#070

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Education
Board of Elementary and Secondary Education

Bulletin 746—Teacher Assessment

The State Board of Elementary and Secondary Education, at its meeting of July 28, 1994, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:950 et seq., and approved for advertisement, the following amendment to be placed in front of Bulletin 746, Louisiana Standards for State Certification of School Personnel:

Effective August 1, 1994, certification requirements will comply with the provisions of Act 1 of 1994 and Bulletin 1943, Policies and Procedures for Louisiana Teacher Assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:411.

Interested persons may submit comments on the proposed policy until 4:30 p.m., December 9, 1994 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Amendment to Bulletin 746

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

The adoption of this proposed rule will cost the Department of Education approximately $100 (printing and postage) to disseminate the policy.

BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately $50. Funds are available.

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

The proposed rule will have no effect on revenue collection.

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

There will be no costs or economic benefit to directly affected persons or nongovernmental groups as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as a result of this action.

Marlyn Langley
Deputy Superintendent of Management
and Finance
9410#071

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Limiting VOC Emissions
(LAC 33:III.Chapter 21) (AQ104)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.Chapter 21, (AQ104).

These proposed additions to LAC 33:III.Chapter 21 relate to the reduction of volatile organic compound (VOC) emissions from reactor processes and distillation operations in the synthetic organic chemical manufacturing industry (SOCMI). This is to be accomplished utilizing reasonably available control technology (RACT). It applies to sources in Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge Parishes that emit at least 50 tons per year of VOCs.

This action is required as a result of the federal Clean Air Act Amendments (CAAA) of 1990, section 182(c) and by the directives of the United States Environmental Protection Agency (USEPA).

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

A public hearing will be held on November 29, 1994, at 1:30 p.m. in the Maynard Ketcham Building, (Room 326), 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Tuesday, December 6, 1994,

at 4:30 p.m., to Patsy Deaville, Enforcement and Regulatory Compliance Division, Post Office Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX (504)765-0486. Commentors should reference this proposed regulation by AQ104. Check or money order is required in advance for each copy of AQ104.

This proposed regulation is available for inspection at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA, telephone (504)342-5015, and at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Limiting VOC Emissions from Reactor Processes and Distillations Operations

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

There are no costs or savings expected as a result of the proposed rule amendments.

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

Promulgation of the proposed rule amendments is not expected to have any effect on revenue collections by state or local governments.

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

Average costs to directly affected industries are extremely difficult to estimate. Each affected stream must be calculated separately at the individual source. However, any costs generated are required as a result of the federal Clean Air Act Amendments of 1990.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is not any expected significant effect on competition and employment from the implementation of the proposed rule amendments.

Gus Von Bodungen
Assistant Secretary
9410#063

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Prevention of Significant Deterioration
(LAC 33:III.509) (AQ105)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.Chapter 5, (AQ105).

The original increments were specified in terms of ambient air concentrations of Total Suspended Particulate (TSP) which was the form of particulate matter addressed in the National Ambient Air Standard at that time. The revised increments for particulate matter, measured as PM_{10}, restrict increases in ambient air concentrations of PM_{10} to the following levels: $4\mu g/m^3$ (annual arithmetic mean) and $8\mu g/m^3$ (24-hour maximum) for Class I areas; $17\mu g/m^3$ (annual arithmetic mean) and $30\mu g/m^3$ (24-hour maximum) for Class II areas; and $34\mu g/m^3$ (annual arithmetic mean) and $60\mu g/m^3$ (24-hour maximum) for Class III areas.

EPA revised the Prevention of Significant Deterioration (PSD) regulation to use particulate matter less than 10 microns in size (PM_{10}) instead of TSP as the regulated pollutant. This change will have no impact on most facilities in Louisiana and is required by federal regulations.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 5. Permit Procedures
§509. Prevention of Significant Deterioration

* * *

[See Prior Text in A]

B. Definitions. For the purpose of this Part, the terms below shall have the meaning specified herein as follows:

* * *

[See Prior Text]

Baseline Date—

1. "Major source baseline date" means:

a. in the case of particulate matter (PM_{10}) and sulfur dioxide, January 6, 1975, and

b. in the case of nitrogen dioxide, February 8, 1988.

2. "Minor source baseline date" means the earliest date after the trigger date on which a major stationary source or a major modification subject to LAC 33:III.509 submits a complete application under the relevant regulations. The trigger date is:

a. in the case of particulate matter (PM_{10}) and sulfur dioxide, August 7, 1977, and

b. in the case of nitrogen dioxide, February 8, 1988.

* * *

[See Prior Text]

Net Emissions Increase—

* * *

[See Prior Text in 1-3]

4. An increase or decrease in actual emissions of sulfur dioxide, particulate matter or nitrogen dioxide which occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM_{10} emissions can be used to evaluate the net emission increase for PM_{10}.

* * *

[See Prior Text in 5-C.3.a.i]

D. Ambient Air Increments. In areas designated as Class I, II, or III, increases in pollutant concentration over the baseline concentration shall be limited to the following:

Pollutant	Maximum Allowable Increase (micrograms per cubic meter)
Class I	
Particulate matter:	
PM_{10}, Annual arithmetic mean	4
PM_{10}, 24-hr maximum	8
Sulfur dioxide:	
Annual arithmetic mean	2
24-hr maximum	5
3-hr maximum	25
Nitrogen dioxide:	
Annual arithmetic mean	2.5
Class II	
Particulate matter:	
PM_{10}, Annual arithmetic mean	17
PM_{10}, 24-hr maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	512
Nitrogen dioxide:	
Annual arithmetic mean	25
Class III	
Particulate matter:	
PM_{10}, Annual arithmetic mean	34
PM_{10}, 24-hr maximum	60
Sulfur dioxide:	
Annual arithmetic mean	40
24-hr maximum	182
3-hr maximum	700
Nitrogen dioxide:	
Annual arithmetic mean	50

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

* * *

[See Prior Text in E-I.8]

a. the emissions increase of the pollutant from the new stationary source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts less than the following amounts:

Carbon monoxide	575 $\mu g/m^3$	8-hour average;
Nitrogen dioxide	14 $\mu g/m^3$	annual average;
Particulate matter	10 $\mu g/m^3$ PM_{10}	24-hour average;
Sulfur dioxide	13 $\mu g/m^3$	24-hour average;

Ozone—No de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data;

Lead	0.1 $\mu g/m^3$	3-month average;
Mercury	0.25 $\mu g/m^3$	24-hour average;
Beryllium	0.001 $\mu g/m^3$	24-hour average;
Fluorides	0.25 $\mu g/m^3$	24-hour average;
Vinyl chloride	15 $\mu g/m^3$	24-hour average;
Total reduced sulfur	10 $\mu g/m^3$	1-hour average;
Hydrogen sulfide	0.2 $\mu g/m^3$	1-hour average;
Reduced sulfur compounds	10 $\mu g/m^3$	1-hour average; or

* * *

[See Prior Text in I.8.b-K.1]

2. any applicable maximum allowable increase over the baseline concentration in any area. This baseline concentration for any stationary source or modification with respect to any maximum allowable increase for particulate matter (PM_{10}) shall be based on the maximum allowable increases for TSP as in effect on the date the application was submitted,if the owner or operator of the source or modification submitted an application for a permit before the PM_{10} maximum allowable increases became effective and the application as submitted before that date was determined complete.

* * *

[See Prior Text in L-P.3]

4. Class I Variances. The owner or operator of a proposed source or modification may demonstrate to the

federal land manager and the administrative authority that the emissions from such source or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the federal land manager concurs with such demonstration and he so certifies, the administrative authority may, provided the applicable requirements of this Section are otherwise met, issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide, particulate matter and nitrogen dioxide would not exceed the following maximum allowable increases over minor source baseline concentration for such pollutants:

	Maximum Allowable Increase (Micrograms per cubic meter)
Particulate Matter:	
PM_{10} Annual arithmetic mean	17
PM_{10} 24-hr maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	325
Nitrogen dioxide:	
Annual arithmetic mean	25

* * *

[See Prior Text in Q-S.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR

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

A public hearing will be held on November 29, 1994, at 1:30 p.m. in the Maynard Ketcham Building, (Room 326), 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Tuesday, December 6, 1994, at 4:30 p.m., to Patsy Deaville, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX (504)765-0486. Commentors should reference this proposed regulation by AQ105.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Prevention of Significant Deterioration

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

This rule amendment will have no estimated implemented costs or savings to state or local governmental units.

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

This rule amendment will have no estimated effect on revenue collections on state or local governmental units.

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

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Gus Von Bodungen
Assistant Secretary
9410#064

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Standards of Performance for New Stationary Sources
(LAC 33:III.Chapter 31) (AQ89)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.Chapter 31, (AQ89).

The proposed amendments to Chapter 31 are being submitted in order that the existing state regulations be brought up to date and be equivalent to the existing federal regulations.

This action is required as a result of EPA directives.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 31. Standards of Performance for New Stationary Sources

Subchapter B. Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971 (Subpart D)

§3135. Applicability and Designation of Affected Facility

* * *

[See Prior Text in A-C]

D. The requirements of LAC 33:III.3139.A.4, A.5, B, D, and 3140.F.4.f are applicable to lignite-fired steam generating

units that commenced construction or modification after December 22, 1976.

* * *

[See Prior Text in E]

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

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

§3139. Standard for Nitrogen Oxides

* * *

[See Prior Text in A-A.1]

2. 129 nanograms per joule heat input (0.30 lb per million Btu) derived from liquid fossil fuel or liquid fossil fuel and wood residue;

* * *

[See Prior Text in A.3-A.5]

B. Except as provided under LAC 33:III.3139.C and D, when different fossil fuels are burned simultaneously in any combination, the applicable standard (in ng/J) is determined by proration using the following formula:

$$PS_{NOx} = \frac{[w\ (260) + x\ (86) + y\ (130) + z\ (300)]}{[w + x + y + z]}$$

where:

PS_{NOx} = the prorated standard for nitrogen oxides when burning different fuels simultaneously, in nanograms per joule heat input derived from all fossil fuels fired or from all fossil fuels and wood residue fired;

w = the percentage of total heat input derived from lignite;

x = the percentage of total heat input derived from gaseous fossil fuel;

y = the percentage of total heat input derived from liquid fossil fuel; and

z = the percentage of total heat input derived from solid fossil fuel (except lignite).

* * *

[See Prior Text in C-D]

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

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

§3140. Emission and Fuel Monitoring

* * *

[See Prior Text in A-B.1]

2. For a fossil fuel-fired steam generator that does not use a flue gas desulfurization device, a continuous monitoring system for measuring sulfur dioxide emissions is not required if the owner or operator monitors sulfur dioxide emissions by fuel sampling and analysis under LAC 33:III.3140.D.

* * *

[See Prior Text in B.3-C]

1. Methods 6, 7, and 3B, as applicable, shall be used for the performance evaluations of sulfur dioxide and nitrogen oxides' continuous monitoring systems. Alternative methods are explained in LAC 33:III.3141.

* * *

[See Prior Text in C.2]

3. For affected facilities burning fossil fuel(s), the span value for a continuous monitoring system measuring the opacity of emissions shall be 80, 90, or 100 percent and for a continuous monitoring system measuring sulfur oxides or nitrogen oxides, the span value shall be determined as follows:

(In Parts Per Million)

Fossil Fuel	Span Value for Sulfur Oxide	Span Value for Nitrogen Dioxide
Gas	([1])	500
Liquid	1,000	500
Solid	1,500	1,000
Combination	1,000y + 1,500z	500(x + y) + 1,000z
[1]Not applicable		

where:

x = the fraction of total heat input derived from gaseous fossil fuel;

y = the fraction of total heat input derived from liquid fossil fuel; and

z = the fraction of total heat input derived from solid fossil fuel.

* * *

[See Prior Text in C.4-F.2]

3. percentO_2, percentCO_2 = oxygen or carbon dioxide volume (expressed as percent), determined with equipment specified under LAC 33:III.3140.A.

* * *

[See Prior Text in F.4]

a. For anthracite coal, as classified according to ASTM: F = 2,723 x 10^{-17} dscm/J (10,140 dscf/million Btu) and F_c = 0.532 x 10^{-17} scm CO_2/J (1,980 scf CO_2/million Btu).

b. For subbituminous and bituminous coal, as classified according to ASTM D388-77 reference—LAC 33:III.3133): F = 2.637 x 10^{-7} dscm/J (9,820 dscf/million Btu) and F_c = 0.486 x 10^{-7} scm CO_2/J (1,810 scf CO_2/million Btu).

* * *

[See Prior Text in F.4.c-e]

f. For lignite coal, as classified according to ASTM D388-77: F = 2.659 x 10^{-7} dscm/J (9,900 dscf/million Btu) and F_c = 0.516 x 10^{-7} scm CO_2/J (1,920 scf CO_2/million Btu).

5. The owner or operator may use the following equation to determine an F factor (dscm/J or dscf/million Btu) on a dry basis (if it is desired to calculate F on a wet basis, consult the administrative authority) or F_c factor (scm CO_2/J, or scf CO_2/million Btu) on either basis in lieu of the F or F_c factors specified in LAC 33:III.3140.F.4:

$F = 10^{-6}$ [227.2(pct.H) + 95.5(pct.C) + 35.6(pct.S) +

8.7(pct.N) - 28.7(pct.O)]/GCV

F_c = [2.0 x 10^{-5} (pct.C)]/GCV (SI Units)

F = 10^6 [$^{-6}$ (3.64(percentH) + 1.53(percentC) + 0.57(percentS) + 0.14 (percentN) - 0.46 (percentO)]/GCV (English Units)

F_2 = [20.0 (percentC)]/GCV (SI Units)

F_c = [321 x 10^{-3} (percentC)]/GCV (English Units)

a. H, C, S, N and O content are by weight of hydrogen, carbon, sulfur, nitrogen and oxygen (expressed as percent), respectively, as determined on the same basis as GCV by ultimate analysis of fuel fired, using ASTM method D3178-74 or D3176 (solid fuels) or computed from results using ASTM method D1137-53(75), D1945-64(76), or D1948-77 (gaseous fuels) as applicable.

b. GVC is the gross calorific value (kJ/kg, Btu/lb) of the fuel combusted determined by the ASTM test methods D2015-77 for solid fuels and D1828-77 for gaseous fuels as applicable.

* * *

[See Prior Text in F.5.c-G.3]

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

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

§3141. Test Methods and Procedures

A. In conducting the performance tests required in LAC 33:III.3115, the owner or operator shall use, as reference methods and procedures, the test methods in LAC 33:III.Chapter 60 or other methods and procedures as specified in this Section, except as provided in LAC 33:III.3115.B. Acceptable alternative methods and procedures are given in Subsection D of this Section.

B. The owner or operator shall determine compliance with the particulate matter, SO_2, and NO_x standards in LAC 33:III.3137-3139 as follows:

1. The emission rate (E) of particulate matter, SO_2, and NO_x shall be computed for each run using the following equation:

$$E = C F_d \frac{(20.9)}{(20.9) - \% O_2)}$$

where:

E = emission rate of pollutant, ng/J (lb/million Btu).

C = concentration of pollutant, ng/dscm (lb/dscf).

percentO_2 = oxygen concentration, percent dry basis.

F_d = factor as determined from Method 19 (LAC 33:III.6073).

2. Method 5 (LAC 33:III.6015) shall be used to determine the particulate matter concentration (C) at affected facilities without wet flue-gas-desulfurization (FGD) systems and Method 5B (LAC 33:III.6018) shall be used to determine the particulate matter concentration (C) after FGD systems.

a. The sampling time and sample volume for each run shall be at least 60 minutes and 0.85 dscm (30 dscf). The probe and filter holder heating systems in the sampling train may be set to provide a gas temperature no greater than 160°C ±14° (320°F ±25°).

b. The emission rate correction factor, integrated or grab sampling and analysis procedure of Method 3B (LAC 33:III.6011) shall be used to determine the O_2 concentration (percentO_2). The O_2 sample shall be obtained simultaneously with, and at the same traverse point as the particulate sample. If the grab sampling procedure is used, the O_2 concentration for the run shall be the arithmetic mean of all the individual O_2 sample concentration at each traverse point.

c. If the particulate run has more than 12 traverse points, the O_2 traverse points may be reduced to 12, provided that Method 1 (LAC 33:III.6001) is used to locate the 12 O_2 traverse points.

3. Method 9 (LAC 33:III.6047) and the procedures in LAC 33:III.3121 shall be used to determine opacity.

4. Method 6 (LAC 33:III.6025) shall be used to determine the SO_2 concentration.

a. The sampling site shall be the same as that selected for the particulate sample. The sampling location in the duct shall be at the centroid of the cross section or at a point no closer to the walls than 1 m (3.28 ft). The sampling time and sample volume for each sample run shall be at least 20 minutes and 0.020 dscm (0.71 dscf). Two samples shall be taken during a one-hour period with each sample taken within a 30-minute interval.

b. The emission rate correction factor, integrated sampling and analysis procedure of Method 3B (LAC 33:III.6011) shall be used to determine the O_2 concentration (percentO_2). The O_2 sample shall be taken simultaneously with and at the same point as the SO_2 sample. The SO_2 emission rate shall be computed for each pair of SO_2 and O_2 samples. The SO_2 emission rate (E) for each run shall be the arithmetic mean of the results of the two pairs of samples.

5. Method 7 (LAC 33:III.6033) shall be used to determine the NO_x concentration.

a. The sampling site and location shall be the same as for the SO_2 sample. Each run shall consist of four grab samples with each sample taken at about 15-minute intervals.

b. For each NO_x sample, the emission rate correction factor, grab sampling and analysis procedure of Method 3B (LAC 33:III.6011) shall be used to determine the O_2 concentration (percentO_2). The sample shall be taken simultaneously with, and at the same point as, the NO_x sample.

c. The NO_x emission rate shall be computed for each pair of NO_x and O_2 samples. The NO_x emission rate (E) for each run shall be the arithmetic mean of the results of the four pairs of samples.

C. When combinations of fossil fuels or fossil fuel and wood residue are fired, the owner or operator (in order to compute the prorated standard as shown in LAC 33:III.3138.B and 3139.B) shall determine the percentage (w, x, y, or z) of the total heat input derived from each type of fuel as follows:

1. The heat input rate of each fuel shall be determined by multiplying the gross calorific value of each fuel fired by the rate of each fuel burned.

2. ASTM Methods D 2015-77 (solid fuels), D 240-76 (liquid fuels), or D 1826-77 (gaseous fuels) shall be used to

determine the gross calorific values of the fuels. The method used to determine the calorific value of wood residue must be approved by the administrative authority.

3. Suitable methods shall be used to determine the rate of each fuel burned during each test period and a material balance over the steam generating system shall be used to confirm the rate.

D. The owner or operator may use the following as alternatives to the reference methods and procedures in this Section or in other sections as specified:

1. The emission rate (E) of particulate matter, SO_2, and NO_x may be determined by using the F_c factor, provided that the following procedure is used:

a. The emission rate (E) shall be computed using the following equation:

$$E = C F_c \left(\frac{100}{\%CO_2} \right)$$

where:

E = emission rate of pollutant, ng/J (lb/million Btu).

C = concentration of pollutant, ng/dscm (lb/dscf).

percentCO_2 = carbon dioxide concentration, percent dry basis.

F_c = factor as determined in appropriate sections of Method 19 (LAC 33:III.6073.

b. If and only if the average F_c factor in Method 19 (LAC 33:III.6073) is used to calculate E and either E is from 0.97 to 1.00 of the emission standard or the relative accuracy of a continuous emission monitoring system is from 17 to 20 percent, then three runs of Method 3B (LAC 33:III.6011) shall be used to determine the O_2 and CO_2 concentration according to the procedures in Subsection B.2.b, 4.b, or 5.b of this Section. Then if F_o (average of three runs), as calculated from the equation in Method 3B (LAC 33:III.6011), is more than ± 3 percent than the average F_o value, as determined from the average values of F_d and F_c in Method 19 (LAC 33:III.6073), i.e., $F_{oa} = 0.209 (F_{da}/F_{ca})$, then the following procedure shall be followed:

i. When F_o is less than 0.97 F_{oa}, then E shall be increased by that proportion under 0.97 F_{oa} (e.g., if F_o is 0.95 F_{oa}, E shall be increased by two percent). This recalculated value shall be used to determine compliance with the emission standard.

ii. When F_o is less than 0.97 F_{oa} and when the average difference (d) between the continuous monitor minus the reference methods is negative, then E shall be increased by that proportion under 0.97 F_{oa} (e.g., if F_o is 0.95 F_{oa}, then E shall be increased by two percent). This recalculated value shall be used to determine compliance with the relative accuracy specification.

iii. When F_o is greater than 1.03 F_{oa} and when the average difference d is positive, then E shall be decreased by that proportion over 1.03 F_{oa} (e.g., if F_o is 1.05 F_{oa}, then E shall be decreased by two percent). This recalculated value shall be used to determine compliance with the relative accuracy specifications.

2. For Method 5 (LAC 33:III.6015) or 5B (LAC 33:III.6018), Method 17 (LAC 33:III.6069) may be used at facilities with or without wet FGD systems if the stack gas temperature at the sampling location does not exceed an average temperature of 160°C (320°F). The procedures of Subsection B.1 and 3 of Method 5B (LAC 33:III.6018) may be used with Method 17 (LAC 33:III.6069) only if it is used after wet FGD systems. Method 17 (LAC 33:III.6069) shall not be used after wet FGD systems if the effluent gas is saturated or laden with water droplets.

3. Particulate matter and SO_2 may be determined simultaneously with the Method 5 (LAC 33:III.6015) train provided that the following changes are made:

a. the filter and impinger apparatus in Subsection B.1.e and f of Method 8 (LAC 33:III.6045) is used in place of the condenser (Subsection B.1.g) of Method 5 (LAC 33:III.6015); and

b. all applicable procedures in Method 8 (LAC 33:III.6045) for the determination of SO_2 (including moisture) are used.

4. For Method 6 (LAC 33:III.6025), Method 6C (LAC 33:III.6031) may be used. Method 6A (LAC 33:III.6027) may also be used whenever Methods 6 (LAC 33:III.6025) and Method 3B (LAC 33:III.6011) data are specified to determine the SO_2 emission rate under the conditions in Subsection D.1 of this Section.

5. For Method 7 (LAC 33:III.6033), Method 7A (LAC 33:III.6035), Method 7C (LAC 33:III.6039), Method 7D (LAC 33:III.6041), or Method 7E (LAC 33:III.6042) may be used. If Method 7C (LAC 33:III.6039), Method 7D (LAC 33:III.6041), or Method 7E (LAC 33:III.6042) is used, the sampling time for each run shall be at least one hour and the integrated sampling approach shall be used to determine the O_2 concentration (percentO_2) for the emission rate correction factor.

6. For Method 3 (LAC 33:III.6009), Method 3A (LAC 33:III.6010) or Method 3B (LAC 33:III.6011) may be used.

7. For Method 3B (LAC 33:III.6011), Method 3A (LAC 33:III.6010) may be used.

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

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

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

A public hearing will be held on November 29, 1994, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Tuesday, December 6, 1994, at 4:30 p.m., to Patsy Deaville, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-

2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX (504)765-0486. Commentors should reference this proposed regulation by AQ89.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Standards of Performance for New Stationary Sources

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs or savings to state or local government units expected as a result of the proposed rule amendments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Promulgation of the proposed rule amendments is not expected to have any major effect on revenue collections by state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No costs and/or economic benefits are expected to accrue to nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no expected significant effect on competition and employment from the implementation of the proposed rule amendments.

Gus Von Bodungen
Assistant Secretary
9410#062

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

RCRA II
(LAC 33:V.Chapters 1-49) (HW43F)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division Regulations, LAC 33:V.Chapters 1, 3, 5, 15, 22, 23, 25, 28, 29, 30, 43, and 49, (HW43).

This rule encompasses a broad scope of topics including permits, general provision for treatment, storage, and disposal facilities, prohibitions on land disposal, waste piles, landfills, drip pads, surface impoundments, boilers and industrial furnaces, and interim status. These rule changes are being submitted in order to bring state rules into conformity with federal rules and to obtain authorization by the EPA.

This action is required by the EPA to maintain equivalency with the federal regulations. This must be done to receive federal authorization to administer the hazardous waste regulations.

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

A public hearing will be held on November 29, 1994, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Tuesday, December 6, 1994, at 4:30 p.m., to Patsy Deaville, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX (504)765-0486. Commentors should reference this proposed regulation by HW43. Check or money order is required in advance for each copy of HW43.

This proposed regulation is available for inspection at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA, telephone (504)342-5015, and at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: RCRA II, HW43F

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs to state or local governmental units. This rule brings state rules into conformity with existing federal rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no effects on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no costs and/or economic benefits to directly affected persons or nongovernmental groups. This rule amendment brings state rules into conformity with existing federal rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since these proposed rules merely bring state rules into conformity with already existing federal rules, there will be no effect on competition or employment.

Glenn A. Miller
Assistant Secretary
9410#061

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

RCRA III, Louisiana Version
(LAC 33:V.Chapters 11-51) (HW44L)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division Regulations, LAC 33:V.Chapters 11, 22, 23, 25, 29, 40, and 51, (HW44L).

This rule encompasses more stringent requirements for used oil. Included in the proposed rule changes are waste minimization, wastepiles, landfills, surface impoundments, and used oil.

The proposed waste minimization regulations will serve to encourage reduction of the generation of hazardous wastes.

The certification of persons developing the waste minimization plans will be required to ensure integrity of the plan.

The proposed waste piles, landfills, and surface impoundment regulations codify standards that the department and industry in Louisiana have been using.

The proposed used oil regulations are for specific manifests to be used to ensure conformity of all manifests and to ensure tracking of the wastes.

This action is based on the intent of R.S. 30:2291-2295, Louisiana Waste Reduction Law, and will assist state generators to protect the health of the public and the environment.

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

A public hearing will be held on November 29, 1994, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Tuesday, December 6, 1994, at 4:30 p.m., to Patsy Deaville, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX (504)765-0486. Commentors should reference this proposed regulation by HW44L. Check or money order is required in advance for each copy of HW44L.

This proposed regulation is available for inspection at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA, telephone (504)342-5015, and at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: RCRA III, HW44L

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

There are no implementation costs to state or local governmental units.

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

There are no effects on revenue collections of state or local governmental units since all this rule does is to bring state rules into conformity with federal rules that are already in existence.

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

There will be a small cost due to the requirement of a registered engineer or CHMM certification of the waste minimization plans, however, some companies already use these credentialed professionals.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment since all parties are affected equally.

Glenn A. Miller
Assistant Secretary
9410#060

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

RCRA III, Federal Version
(LAC 33:V.Chapters 1-49) (HW44F)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division Regulations, LAC 33:V.Chapters 1, 3, 5, 11, 15, 18, 22, 23, 25, 26, 29, 30, 33, 35, 37, 40, 41, 43, 45, and 49, (HW44F).

This rule encompasses a broad scope of topics including permits, general provision for treatment, storage, and disposal facilities, prohibitions on land disposal, waste piles, landfills, drip pads, surface impoundments, boilers and industrial furnaces, and interim status. These rule changes are being submitted in order to bring state rules into conformity with federal rules and to obtain authorization by the EPA.

This action is required by the EPA to maintain equivalency with the federal regulations. This must be done to receive federal authorization to administer the hazardous waste regulations.

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

A public hearing will be held on November 29, 1994, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Tuesday, December 6, 1994, at 4:30 p.m., to Patsy Deaville, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX (504)765-0486. Commentors should reference this proposed regulation by HW44F. Check or money order is required in advance for each copy of HW44F.

This proposed regulation is available for inspection at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA, telephone (504)342-5015 and at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: RCRA III, HW44F

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

There are no implementation costs to state or local governmental units. This rule brings state rules into conformity with federal rules.

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

There are no effects on revenue collections of state or local governmental units.

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

There are no costs and/or economic benefits to directly affected persons or nongovernmental groups. This rule amendment brings state rules into conformity with existing federal rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment since all parties already must follow federal rules that are identical to these proposed rules. These proposed rules merely bring state rules into conformity with already existing federal rules.

Glenn A Miller
Assistant Secretary
9410#059

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Office of the Governor
Division of Administration
Office of Facility Planning and Control

Capital Outlay Budget Request Forms (LAC 34:III.201)

Under the authority of R.S. 39:102.C., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the director gives notice that the Capital Outlay Budget Request Forms and Instructions have been revised.

The full text of this revision may be obtained from the Office of the State Register, or Facility Planning and Control, 1051 North Third Street, Capitol Annex Building, Baton Rouge, LA.

These revisions are also published by reference in the Emergency Rule Section of this issue of the *Louisiana Register*, therefore, will become effective upon publication of the emergency rule for the maximum of 120 days or until this rule takes effect through the normal administrative procedure process.

All interested persons are invited to submit written comments on the proposed revisions. Such comments should be submitted no later than November 30, 1994, 4:30 p.m., to James Purpera, Facility Planning and Control, Box 94095,

Baton Rouge, LA 70804-94095, or to 1051 North Third Street, Room B31, Baton Rouge, LA.

Roger Magendie
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Capital Outlay Requests

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no implementation costs or savings.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Roger Magendie
Director
9410#046

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Office of the Governor
Division of Administration
Office of State Purchasing

Government Contracts, Procurement and Property Control (LAC 34:I.Chapters 3-27)

The Division of Administration, Central Purchasing proposes to adopt and/or amend the rules and regulations as promulgated in accordance with LAC Title 34, Part I, Chapters 3-27, Government Contracts, Procurement and Property Control, which were derived from the Louisiana Procurement Code, R.S. 39:1551-1736. The purpose of this amendment is to make technical changes to form and grammar to clarify the State Purchasing rules and regulations.

Copies of the full text may be obtained between the hours of 8 a.m. and 4:30 p.m. on any business day at the State Purchasing Office, 301 Main Street, One American Place, 13th Floor, Baton Rouge, LA 70802, or the Office of the State Register, 1051 North Third Street, Fifth Floor, Capitol Annex, Baton Rouge, LA 70802. Copies may also be obtained by calling 504-342-8062 or FAX a request to 504-342-8688.

All interested persons are invited to submit written comments on the purchasing rules. Such comments should be submitted no later than 10 a.m., Monday, November 28, 1994, to Virgie O. LeBlanc, Director of State Purchasing, by mailing to Box 94095, Baton Rouge, LA 70804-9095, or delivering to 301 Main Street, One American Place, 13th Floor, Baton Rouge, LA 70802, or by FAX to 504-342-8688. Comments should reference these rules.

A public hearing will be held in the conference room at the Office of State Purchasing, 301 Main Street, One American Place, 13th Floor, Baton Rouge, LA 70802 beginning at 10 a.m. on November 28, 1994.

Virgie O. LeBlanc, C.P.P.O.
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Government Contracts, Procurement and Property Control

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs to any state or local governments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated effect on competition or employment.

Virgie O. LeBlanc
Director
9410#074

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

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

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

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLIX. Board of Examiners of Nursing Facility Administrators
Chapter 16. Certified Nurses Aide Register
§1601. Operation of CNA Register

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 21:

§1603. Certificate of Certification

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 21:

Interested persons may submit written comments through November 30, 1994 to Kemp Wright, Executive Director, State Board of Examiners of Nursing Facility Administrators, 4560 North Boulevard, Suite 115A, Baton Rouge, LA 70806.

Kemp Wright
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Certified Nurses Aide Register

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

There will be no implementation costs to state or local governments.

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

It is estimated that board revenue collections will increase by approximately $125,000/year. No impact on local governmental units.

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

Certified nurse aides who wish to obtain an official certificate will pay $5 per year for this state document.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Kemp Wright
Executive Director
9410#024

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Board of Nursing

Continuing Education; Nursing Practice Requirements (LAC 46:XLVII.3356)

Notice is hereby given, in accordance with R.S. 49:950, that the Louisiana State Board of Nursing (board), pursuant to the authority vested in the board by R.S. 37:911, R.S. 37:918(E)(K), and the provisions of the Administrative Procedure Act, intends to adopt rules amending the continuing education/nursing practice requirements for relicensure to practice as a registered nurse. The proposed rules are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLVII. Nurses
Subpart 2. Registered Nurses
Chapter 33. General Rules
Subchapter D. Registration and Licensure
§3356. Continuing Education/Nursing Practice

* * *

B. Definitions: For the purposes of this Section:

Accredited Postsecondary Institution—a degree granting institution that conducts a program preparing registered nurses and awards degrees at any or all of the following levels: associate's, bachelor's, master's, and doctor's; and which is accredited by a nationally recognized accrediting body.

Approved Offering—a continuing education offering provided by an approved provider, or an individual offering approved by the Louisiana State Board of Nursing (LSBN) or through the American Nurses Credentialing Center (ANCC)-Commission on Accreditation.

Approved Provider—individual, partnership, corporation, association, organization, organized health care system, educational institution, or governmental agency which has been approved by the LSBN, accredited by the ANCC, or approved through the ANCC to provide continuing education.

C.E. Activities—

a. *Course*—an intense, planned educational activity, presented over time, which includes content related to a specific subject for which academic credit or contact hours are awarded.

b. *Offering*—a continuing education activity of short duration for which a minimum of one contact hour is awarded.

c. *Program*—a series of offerings with a common

theme and common overall goals. Offerings may occur consecutively or concurrently.

Clinical Competence—the possession and use of professional knowledge and skills in relation to direct patient/client care.

Competence—the possession of professional knowledge and skills necessary to practice or function at the legally qualified level.

Contact Hour—a unit of measurement that describes 50 minutes of participation in an educational activity which meets LSBN continuing education criteria. Ten contact hours equal one Continuing Education Unit (C.E.U.).

Continued Competence—the possession and maintenance of current professional knowledge and skills.

Continuing Education—a planned educational activity designed to update the knowledge and skills of the participant, beyond the entry level, or to prepare for practice in a different area of nursing.

Criterion—a standard, rule, or test by which something can be judged, measured, or valued.

Current—occurring in the present time; contemporary.

Documentation of Nursing Practice—the presence of written evidence of nursing practice.

Examination—an exercise designed to evaluate progress, qualifications, or knowledge.

Full-time Nursing Practice—a minimum of 2,080 hours, per year, of employment as a registered nurse or full-time equivalency requirements set forth by the employer. For self-employed and contract nurses, a minimum of 1,600 nursing practice hours, exclusive of travel, per calendar year, is accepted as full-time employment.

LSBN-approved Contact Hours—contact hours which have been approved by the LSBN or through the ANCC.

National Council Licensure Examination for Registered Nurses (NCLEX-RN)—the examination approved by the LSBN and administered to measure competency for initial licensure as a registered nurse.

Nursing Practice—the performance for compensation by a registered nurse of functions requiring specialized knowledge and skill derived from the biological, physical, and behavioral sciences (Nurse Practice Act, R.S. 37:913(3)), which includes but is not limited to direct patient care, supervision, teaching, administration, and positions which require use of nursing knowledge, judgment, and skill.

Part-time Nursing Practice—a minimum of 160 hours employment as a registered nurse, but less than full-time employment within the one-year audit period.

Practice Hour—60 minutes of nursing practice.

Refresher Course—instruction designed to up-date professional knowledge and skills to the legally qualified level.

Requirement—something needed or demanded by virtue of a law, regulation, etc.

C. Continuing Education/Nursing Practice Requirements. Registered Nurses are required to meet the continuing education nursing practice requirements for relicensure and to certify compliance on the application for relicensure. The following options are available to fulfill these requirements:

1. For licensure renewal or reinstatement after less than a four-year interruption, the applicant must be in compliance with one of the following:

a. a minimum of five LSBN approved contact hours of continuing education and full-time practice as a registered nurse during the previous calendar year, or

b. a minimum of 10 LSBN approved contact hours of continuing education and a minimum of 160 hours of practice as a registered nurse during the previous calendar year, or

c. a minimum of 15 LSBN approved contact hours of continuing education during the previous calendar year, or

d. initial licensure by examination or by endorsement during the previous calendar year, or

e. certification by organizations in a specialty area of nursing whose requirements have been approved by the board as being equivalent to or exceeding the above requirements.

2. For reinstatement of a license which has lapsed, been suspended, or has been inactive for four years or more, the applicant must provide documentation of one of the following:

a. completion of a board approved refresher course consisting of a minimum of 160 hours of instructor planned, supervised instruction, including theory and clinical practice, or

b. individualized remediation including an assessment of needs, a program of study designed to meet these needs, and an evaluation of the learning outcomes of the program. Such program must be sponsored by an Approved Provider in an accredited postsecondary educational institution whose faculty hold masters' degrees in nursing, or

c. a minimum of 60 LSBN approved contact hours of continuing education within the previous four years, or

d. successful completion of the NCLEX-RN examination during the previous calendar year.

3. Nurses with a Louisiana inactive/lapsed licensure status, who hold current licensure in another state, may reinstate their Louisiana license under Subsection C.1.

D. Continuing Education Activities. Continuing education contact hours may be awarded for the following:

1. C.E. activities that meet the criteria for content of continuing education as specified in §3356.E. and offered by approved providers as specific in §3356.G;

2. academic courses in an accredited postsecondary institution which are related to specific knowledge and/or technical skills required for the practice of nursing as specified in §3356.E., or which lead to an advanced degree in nursing or to a certificate in advanced nursing practice. Academic credits leading to a Bachelor of Science Degree in Nursing (BSN), acquired post-licensure as a Registered Nurse, shall be applicable toward meeting the continuing education requirements for relicensure for a maximum of four consecutive years. Academic courses recorded as "audit" shall not apply toward meeting the C.E. requirements or relicensure.

Contact hours shall be calculated from credit hours as follows:

Quarter System	one credit hour equals 10 contact hours
Trimester System	one credit hour equals 12 contact hours
Semester System	one credit hour equals 15 contact hours

3. continuing education activities which have been provided by an approved provider;

4. initial certification in an approved course, such as ACLS, PALS, or IV Therapy, etc. Recertification does not meet the C.E. requirements for relicensure;

5. other C.E. activities as approved or accepted by the board at its sole discretion;

6. no contact hours shall be awarded for attendance at part of a continuing education offering;

7. instructors who present part of a C.E. activity may receive a certificate if the total activity is attended. Presenting a total C.E. activity shall not be considered C.E. for the presenter;

8. there is no limit on the number of contact hours that may be earned through home study.

E. Content of Continuing Education Activities. The following areas are acceptable subject matter to fulfill continuing education requirements for relicensure in Louisiana, provided that the content is beyond the entry level:

1. nursing practice topics related to counseling, teaching, or care of clients in any setting;

2. sciences upon which nursing practice, nursing education, and nursing research are based, e.g., nursing theories; biological, physical, and behavioral sciences; and advanced nursing in general or specialty areas;

3. professional, social, economic, spiritual, and ethical/ legal aspects of nursing;

4. nursing management, nursing administration or nursing education;

5. education of clients and significant others, or of personnel associated with nursing functions.

F. Criteria for Approval of an Individual C.E. Activity. Upon showing evidence of meeting the following criteria, the C.E. activity may be approved by the board, for a period of one year:

1. have a consistent, identifiable authority with a BSN and an active RN license who:

a. has the overall responsibility for planning, implementing, and evaluating the continuing education activity;

b. accepts full responsibility for the continuing education activity, including, but not limited to: determining contact as specified in Subsection E, selecting faculty presenters with expertise in the content area, advertising, issuing certificates, and keeping records;

2. establish a nursing C.E. planning committee, composed predominantly of R.N.'s;

3. plan a C.E. activity utilizing principles of adult education that includes:

a. philosophy of continuing education;

b. statement of purpose;

c. selection of predominantly R.N. teaching faculty with expertise in the subject matter;

d. measurable educational objectives;

e. outline of content;

f. teaching methodology;

g. contact time appropriate for the content and the objective;

h. an evaluation form that includes: attainment of the objectives, effectiveness of the speakers and methodology, appropriateness of facilities, relevance of the content to the objectives, and overall effectiveness of the C.E. activity;

4. maintain participant and program records for a minimum of five years. The record storage system must maintain confidentiality and allow for retrieval of essential information for the C.E. activity including:

a. the completed application form;

b. the C.E. activity approval letter;

c. names and addresses of participants and number of contact hours awarded to each;

d. participant summary evaluation report;

5. the following content shall be included on the brochure/flyer and submitted with the Application for C.E. Activity Approval: date, time, location, target audience, registration fee, items covered by the fee, refund policy, objectives, agenda, speaker credentials, contact hours to be awarded, the C.E. activity approval statement, and a statement indicating compliance with the Americans with Disabilities Act (ADA). A final copy of the brochure/flyer shall be mailed to the board prior to implementation of the C.E. activity. The Application for C.E. Activity Approval shall be submitted to the board at least 90 calendar days prior to implementation of the C.E. activity. Fees payable upon submission of an application for review are: $50 (nonrefundable) plus $10 for each contact hour of instruction, up to a maximum of $700. C.E. activities are approved for one year. A fee of 25 percent of the original fee, with a minimum of $30 is payable for a one year extension of the approval status. Evidence of approval of a C.E. activity through the American Nurses Credentialing Center (ANCC) Commission on Accreditation may be submitted in lieu of evidence of meeting the above criteria. The 90-day deadline and fee are waived in this situation. The board must receive immediate written notification of any change in an approved C.E. activity.

G. Criteria for Approved Providers. Continuing education providers may be designated by the board as "approved providers" for a period of two years upon showing evidence of meeting the following criteria:

1. prepared and presented three approved C.E. activities within the previous one and one half years as specified in Subsection F;

2. have a consistent, identifiable authority, with a minimum of a baccalaureate degree in nursing and a current RN license, who has the overall responsibility for execution of the Nursing Continuing Education Provider Unit;

3. the RN responsible for execution of the Nursing C.E. Provider Unit shall accept full responsibility to ensure that all continuing education activities meet the board criteria specified in §3356.F;

4. document registered nurse, including RN consumer, participation in the planning and implementation of nursing continuing education activities for which contact hours are awarded;

5. develop an overall provider unit annual evaluation plan;

6. participate in an LSBN site visit to validate compliance with provider criteria;

7. provide notification of the availability of each C.E. activity as specified in Subsection F. The LSBN approved provider number shall be included on all advertising materials and certificates. A copy of each brochure/flyer shall be mailed to the board prior to implementation of the C.E. activity. Evidence of accreditation/approval as a provider unit through the American Nurses Credentialing Center (ANCC) Commission on Accreditation may be submitted in lieu of evidence of meeting the above criteria. An Application for C.E. Provider Approval shall be filed with the board at least 90 calendar days prior to implementation of a C.E. activity as an approved provider. Fees payable upon submission of an application for total provider unit review are $500 for two years, with $100 being nonrefundable.

H. Monitoring System. Fulfillment of the requirements for continuing education/nursing practice for relicensure shall be ascertained as follows.

1. Verification of Continuing Education/Nursing Practice. on the application for relicensure, licensees shall sign a statement certifying compliance and agreeing to supply supporting documents upon request. Maintaining documentation of continuing education is the responsibility of each individual. Falsification of the renewal application may result in disciplinary action.

2. Audit of Licensees. The board shall select randomly no less than 3 percent of the licensees for audit of compliance with the requirements for relicensure. Additionally, the board has the right to audit any questionable documentation of activities. Such shall be governed by the following:

a. The licensee must submit verification of compliance with continuing education requirements or exceptions for the period being audited. Verification includes legible copies of certificates of attendance, transcripts/grade reports, or documentation of compliance with exceptions as provided in §3356.K.

b. Licensees who use the nursing practice option as partial evidence of continued competence shall document nursing practice on the audit form provided by the board. Said documentation shall be signed by an individual who has practiced in a supervisory, collaborative or peer relationship. The staff of the Board of Nursing will evaluate exceptions to the standard form of documentation on an individual basis.

Self employed and contract nurses may use paycheck stubs along with a work log record of actual hours worked.

c. Verification shall be submitted within 30 calendar days of the date of the audit notification letter.

d. Failure to complete the audit satisfactorily or falsification of information may result in disciplinary action against the licensee in accord with the process and procedures provided in LAC 46:XLVII.3333.

e. Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement.

3. Audit of Approved Providers. The board reserves the right to audit approved providers to ascertain compliance with the criteria for approval. Upon a finding of a deviation from the criteria for approval, after a hearing before the board, approval status may be withdrawn or the provider may be placed on probation for a specified period of time. Approval status may be restored upon submission of evidence that the provider satisfactorily fulfills the criterion (criteria) in question.

a. Appeal. A provider who wishes to request reconsideration shall do so within 20 calendar days from the date of receipt of notification of the action of the board. The provider shall submit a statement which shows cause why action should not have been taken by the board. This statement shall be acted upon by the board within 20 calendar days.

b. A final decision of the board may be appealed in the 19th Judicial District Court within 30 calendar days of the receipt of the decision.

I. Refresher Course. To be approved by the board, a refresher course shall meet the following criteria.

1. The sponsoring institution must have access to adequate facilities and resources and qualified educational staff to implement both the required theoretical and clinical components of the refresher course.

2. The course must be based on clearly stated objectives which are realistic for the time allotted in the course and appropriate for the course content.

3. The course content must provide a review of basic nursing care concepts, principles, and skills related to patients across the life cycle.

4. The sponsoring institution must submit the course syllabus for approval at least 90 calendar days prior to implementation of the course.

5. Fees payable upon submission of a refresher course for approval are $250 with $50 being nonrefundable.

J. NCLEX-RN. Licensees who choose the option of taking the NCLEX-RN shall complete the required application, pay the established fee, and follow the current process for testing.

K. Exceptions: A licensee may request an exemption, supported with documentation, from the continuing education/ nursing practice requirements, or for an extension of time within which to fulfill the requirements, for one of the following reasons.

1. The licensee is requesting inactive status for the license. In this case, the requirements apply when the licensee seeks to reactivate the license.

2. The licensee served on active duty in the armed forces for the entire licensure period.

3. The licensee is employed by an agency of the United States government outside the state of Louisiana.

4. The licensee has been unable to work due to a physical or mental disability for 2/3 of the most recent audit period and submits medical evidence of readiness or ability to return to work.

5. The individual is currently enrolled as a bonafide student in a board-approved refresher course.

6. The individual presents evidence of an emergency or extenuating circumstances. At the time of filing an application for relicensure based on an exception, the licensee must attach documentation of the exception.

L. Penalty for Noncompliance. Failure to comply with these requirements shall prohibit license renewal and result in the licensee being placed on delinquent/lapsed status. Upon presentation of evidence of meeting the continuing education/ nursing practice requirements, the license may be reinstated.

Falsification of data on the renewal or audit forms may result in disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:911, R.S. 37:918(E)(K) and R.S. 37:920(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 16:(December 1990), amended by the Department of Health and Hospitals, Board of Nursing, LR 21:

Inquiries concerning the proposed rules may be directed in writing to: Barbara L. Morvant, Executive Director, State Board of Nursing, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the State Board of Nursing, at 912 Pere Marquette Building, 150 Baronne Street, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of the date of this notice. A request pursuant to R.S.49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Barbara L. Morvant
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Continuing Education; Nursing Practice Requirements

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

The cost of implementation of the rule revisions is estimated at $4,620 per year, resulting from annual audits rather than every two year audits of the registered nurse for compliance with the continuing education/nursing practice requirements for relicensure.

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

Fees collected by the Board of Nursing for approval of C.E. activities and providers and for C.E. activities provided by the board are anticipated to increase by approximately $4,550 per year.

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

There are no additional costs or economic benefits for the registered nurse by being audited annually rather than every two years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated negative effect on competition among the providers or employment. The expected competiton among providers should have a positive effect on the quality of continuing education for registered nurses. This change makes the licensure renewal period and compliance with the continuing education/nursing practice requirements for relicensure concurrent and should decrease the registered nurses' confusion about the relicensure period and the compliance deadline for the continuing education requirements.

Barbara L. Morvant, M.N., R.N.
Executive Director
9410#084

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Board of Nursing

Disclosure of Financial Interests and Prohibited Payments
(LAC 46:XLVII.Chapter 34)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the State Board of Nursing (board), pursuant to the authority vested in the board by R.S. 37:918(K), and in accord with R.S. 37:1744, and R.S. 37:1745, and the provisions of the Administrative Procedure Act, intends to adopt rules implementing, interpreting and providing for enforcement of the provisions of Act 657 of 1993, requiring written disclosure to patients of registered nurse's financial interest in another health care provider prior to referring a patient to such health care provider and of Act 827 of 1993, prohibiting certain payments in return for the referral or solicitation of patients by registered nurses and other health care providers. The proposed rules are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLVII.Nurses
Subpart 2. Registered Nurses
Chapter 34. Disclosure of Financial Interests and Prohibited Payments

§3401. Scope

The rules of this Chapter interpret, implement and provide for the enforcement of R.S. 37:1744 and R.S. 37:1745, requiring disclosure of a registered nurse's and registered nurse applicant's financial interest in another health care provider to whom or to which the nurse refers a patient, and prohibiting certain payments in return for referring or soliciting patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744, R.S. 37:1745 and R.S. 37:918(K).

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

§3403. Definitions and Construction

A. Definitions. For the purpose of this chapter, the following terms are defined as follows:

Board—Louisiana State Board of Nursing.

Financial Interest—a significant ownership or investment interest established through debt, equity or other means and held, directly or indirectly, by a registered nurse or a member

of a registered nurse's immediate family, or any form of direct or indirect remuneration for referral.

Health Care Item—any substance, product, device, equipment, supplies or other tangible good or article which is or may be used or useful in the provision of health care.

Health Care Provider—any person, partnership, corporation or any other organization licensed by the state to provide preventive, diagnostic, or therapeutic health care services or items.

Health Care Services—any act or treatment performed or furnished by a health care provider to or on behalf of a patient.

Immediate Family—as respects a registered nurse, the registered nurse's spouse, children, grandchildren, parents, grandparents and siblings.

Payment—transfer or provision of money, goods, services, or anything of economic value, including gifts, gratuities, favors, entertainment or loans.

Person—includes a natural person or a partnership, corporation, organization, association, facility, institution, or any governmental subdivision, department, board, commission, or other entity.

Registered Nurse—an individual licensed as a registered nurse in Louisiana, or an individual licensed as a registered nurse in another state and holding a 90-day permit to practice nursing in Louisiana in accordance with R.S. 37:920.

Registered Nurse Applicant—a graduate of an approved school of nursing who has been issued a temporary working permit, as provided for in R.S. 37:920(C).

Referral—the act of ordering, directing, recommending or suggesting as given by a health care provider to a patient, directly or indirectly, which is likely to determine, control or influence the patient's choice of another health care provider for the provision of health care services or items.

B. Construction. As used hereinafter in this chapter, the term registered nurse is deemed to likewise incorporate registered nurse applicants as defined herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:918(K).

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

Subchapter A. Disclosure of Financial Interests by Referring Health Care Providers

§3405. Required Disclosure of Financial Interests

A registered nurse shall not make any referral of a patient outside the nurse's employment practice for the provision of health care items or services by another health care provider in which the referring registered nurse has a financial interest, unless, in advance of any such referral, the referring registered nurse discloses to the patient, in accordance with §3409 of this Chapter, the existence and nature of such financial interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:918(K).

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

§3407. Prohibited Arrangements

Any arrangement or scheme, including cross-referral arrangements, which a registered nurse knows or should know has a principal purpose of ensuring or inducing referrals by the registered nurse to another health care provider, which, if made directly by the registered nurse would be a violation of §3405, shall constitute a violation of §3405.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:918(K).

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

§3409. Form of Disclosure

A. Required Contents. The disclosure required by §3405 of this Chapter shall be made in writing, shall be furnished to the patient, or the patient's authorized representative, prior to or at the time of making the referral, and shall include:

1. the registered nurse's name, address and telephone number;

2. the name and address of the health care provider to whom the patient is being referred by the registered nurse;

3. the nature of the items or services which the patient is to receive from the health care provider to which the patient is being referred; and

4. the existence and nature of the registered nurse's financial interest in the health care provider to which the patient is being referred.

B. Permissible Contents. The form of disclosure required by §3409 of this Chapter may include a signed acknowledgment by the patient or the patient's authorized representative that the required disclosure has been given.

C. Approved Form. Notice to a patient given substantially in the form of Disclosure of Financial Interest prescribed in the appendix of these rules shall be presumptively deemed to satisfy the disclosure requirements of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:918(K).

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

§3411. Effect of Violation; Sanctions

A. Any violation of or failure of compliance with the prohibitions and provision of §3413 of this Chapter shall be deemed grounds for disciplinary proceedings against a registered nurse, R.S. 37:921, providing cause for the board to deny, revoke, suspend or otherwise discipline the license of said registered nurse.

B. Administrative Sanctions

1. In addition to the sanctions provided for by §3411.A, upon proof of violation of §3405 by a registered nurse, the board shall order a refund of all or any portion of any amounts paid by a patient, and/or by any third-party payor on behalf of a patient, for health care items or services furnished upon a referral by the registered nurse in violation of §3405. The board may order the registered nurse to refund to such patient and/or third-party payor, the legal interest on such payments at the rate prescribed by law calculated from the date on which any such payment was made by the patient and/or third-party payors.

2. In addition to the above, anyone who violates any provisions of this part may be brought before the board and fined not more than $5,000 for each count or separate offense, plus administrative costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:917(K).

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

Subchapter B. Prohibited Payments

§3413. Prohibition of Payments for Referrals

A. A registered nurse shall not knowingly and willfully make or offer to make any payment, directly or indirectly, overtly or covertly, in cash or in kind, to induce another person to refer an individual to the registered nurse for the furnishing or arranging for the furnishing of any health care item or service.

B. A registered nurse shall not knowingly and willfully solicit, receive or accept any payment, directly or indirectly, overtly or covertly, in cash or in kind, in return for referring a patient to a health care provider for the furnishing or arranging for the furnishing of any health care item or service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1745 and R.S.37:918.K.

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

§3415. Exceptions

A. Proportionate Return on Investment. Payments or distributions by an entity representing a direct return on investment based upon a percentage of ownership shall not be deemed a payment prohibited by R.S. 37:1745(B) or by §3413 of these rules, provided that the requirements of the "Safe Harbor Regulations" at 56 Fed. Reg. 35,951 are satisfied.

B. General Exceptions. Any payment, remuneration, practice or arrangement which is not prohibited by or unlawful under §1128.B(b) of the Federal Social Security Act (Act), 42 U.S.C. §1320a-7b(b), as amended, with respect to health care items or services for which payment may be made under Title XVIII or Title XIX of the act, including those payments and practices sanctioned by the secretary of the United States Department of Health and Human Services, through regulations promulgated at 42 C.F.R. §1001.952, shall not be deemed a payment prohibited by R.S. 37:1745(B) or by §3413 of these rules with respect to health care items or services for which payment may be made by any patient or private governmental payor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1745 and R.S. 37:918(K).

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

§3417. Effect of Violation

A. Any violation of or failure of compliance with the prohibitions and provision of §3413 of this Chapter shall be deemed grounds for disciplinary proceedings against a registered nurse, R.S. 37:921, providing cause for the board to deny, revoke, suspend or otherwise discipline the license of said registered nurse.

B. Administrative Sanctions. In addition to the above, anyone who violates any provisions of this part may be brought before the board and fined not more than $5,000 for each count or separate offense plus administrative costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1745 and R.S. 37:918(K).

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

Appendix

Referring Nurse _____ Phone_____
Employer_____

Address_____
_____

DISCLOSURE OF
FINANCIAL INTEREST

AS REQUIRED BY LA R.S. 37:1744 AND
LAC 46:XLVII.3403-3407

TO:_____ Date:_____
(Name of Patient to Be Referred)

_____
(Patient Address)

Louisiana law requires registered nurses and other health care providers to make certain disclosures to a patient when they refer a patient to another health care provider or facility in which the registered nurse has a financial interest. [I am] [We are] referring you, or the named patient for whom you are legal representative, to:

_____
(Name and Address of Provider to Whom Patient is Referred)
to obtain the following health care services, products or items:

_____
(Purpose of the Referral)
[I] [We] have a financial interest in the health care provider to whom [I am] [we are] referring you, the nature and extent of which are as follows:

_____
_____
_____

PATIENT ACKNOWLEDGMENT

I, the above-named patient, or legal representative of such patient, hereby acknowledge receipt, on the date indicated and prior to the described referral, of a copy of the foregoing Disclosure of Financial Interest. I acknowledge that I have been advised by the above identified nurse of the nurse's financial or ownership interest in the facility or entity to which I have been referred and further, that the nurse has advised me that I am free to choose another facility or entity to provide the service, drug, device or equipment recommended.

_____
(Signature of Patient or Patient's Representative)

Inquiries concerning the proposed rules may be directed in writing to: Barbara L. Morvant, Executive Director, State Board of Nursing, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the Louisiana State Board of Nursing, at 912 Pere Marquette Building, 150 Baronne Street, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of the date of this notice. A request pursuant to R.S.49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Barbara L. Movant
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Disclosure of Financial Interests and Prohibited Payments (LAC 46:XLVII.Chapter 34)

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

There are no anticipated significant implementation costs or savings to the Louisiana State Board of Nursing.

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

Section 3411.B and 3417.B would assist in defraying costs of investigation, and disciplinary proceedings of nurses who violate provisions of the act, in that the rules provide for a fine of not more than $5,000 and the administrative costs.

There is no objective data to determine the number of violations, if any, which may occur. It is anticipated that there will be no significant effect on revenue collections by the Louisiana State Board of Nursing or any other state or local government.

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

Section 3411.B provides for refunds of amounts paid by patients and/or third-party payors from the nurse who violates the act.

Registered nurses with financial interests in a variety of health care services may incur reductions in the number of referred patients to their health care entities, and may incur a reduction in income. Persons who violate the rules may have their licenses disciplined by the board and may be required to pay fines not to exceed $5,000 and/or administrative costs.

Currently, there are no available reliable data upon which to base an estimated costs and/or economic benefits to affected persons related to implementing LAC 46:XLVII, Chapter 34.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment.

Barbara L. Morvant, MN, RN
Executive Director
9410#085

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Board of Nursing

Registered Nurses Disciplinary Proceeding
Definition of Terms (LAC 46:XLVII.3331)

Notice is hereby given, that the Board of Nursing (board), pursuant to the authority vested in the board by R.S. 37:918(K), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., intends to amend a rule implementing, interpreting and providing for enforcement of the provisions R.S. 37:921(C), particularly as it pertains to a violation of a rule or an order of the board, and/or a violation of state and federal laws relating to the practice of professional nursing. The proposed amendment is set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLVII. Nurses
Subpart 2. Registered Nurses
Chapter 33. General Rules
Subchapter C. Disciplinary Proceedings
§3331. Definition of Terms

* * *

H. *Other causes*—includes, but is not limited to:

* * *

16. Has violated a rule adopted by the board, an order of the board, or a state or federal law relating to the practice of professional nursing, or a state or federal narcotics or controlled substance law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744, R.S. 37:1745, R.S. 37:921 and R.S. 37:918.K.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 20: (October 1994).

Inquiries concerning the proposed rules may be directed in writing to: Barbara L. Morvant, Executive Director, Board of Nursing, at the address set forth below.

Interested persons may submit written data, views, arguments, information or comments on the proposed rules, to the Board of Nursing, 912 Pere Marquette Building, 150 Baronne Street, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of the date of this notice. A request pursuant to R.S.49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Barbara L. Morvant, R.N., M.N.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Disciplinary Proceedings

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

There are no anticipated implementation costs or savings to the Louisiana State Board of Nursing.

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

There is no anticipated significant effect on revenue collections by the Louisiana State Board of Nursing or any other state or local government.

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

There is no anticipated material effect on costs to registered nurses who follow the rules or an order of the board, and state or federal laws. However, nurses who violate rules or an order of the board, or state and federal laws may have their license suspended or other disciplinary measures taken.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment if the registered nurse practices in accord with the rules and laws. However, failure to practice in accord with rules and laws may result in suspension of registrant's license or other disciplinary measures taken.

Barbara L. Morvant, R.N., M.N.
Executive Director
9410#086

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Office of the Secretary

Nonsufficient Fund Check Policy

The Department of Health and Hospitals proposes to adopt rules to implement R.S. 9:2782 relative to nonsufficient fund checks, damages and attorney fees in compliance with R.S. 9:2782. The Department of Health and Hospitals proposes to adopt the following procedures to be used for dishonored checks.

I. Notification

A. Upon discovery of nonsufficient funds by the department, a written demand in the form which follows shall be sent by certified or registered mail to the drawer of the check at the address shown on the instrument: "You are hereby notified that check number for the amount of _____, issued by you and payable to (Department, Office, Fund, etc.), has been dishonored. Pursuant to Louisiana law, you have thirty days from receipt of this notice to tender payment by certified check or money order in full for the amount of the check plus a service charge of fifteen dollars or five percent of the face amount of the check, whichever is greater, the total amount due being (face amount + service charge). Unless this amount is paid in full within the thirty-day period, the holder of the check may file a civil action against you for two times the amount of the check or one hundred dollars, whichever is greater, plus any court costs and reasonable attorney fees incurred by the payee in taking the action."

B. Notice mailed by certified or registered mail evidenced by return receipt to the address printed on the check or given at the time of issuance shall be deemed sufficient and equivalent to notice having been received by the person making the check.

C. It shall be prima facie evidence that the drawer knew that the instrument would not be honored if notice mailed by certified or registered mail is returned to the sender when such notice is mailed within a reasonable time of dishonor to the address printed on the instrument or given by the drawer at the time of issuance of the check.

II. Damages

The Department of Health and Hospitals shall charge the drawer of the check a service charge of $15 or 5 percent of the face amount of the check, whichever is greater, when making written demand for payment.

III. Attorneys Fees

Whenever any drawer of a check dishonored for nonsufficient funds fails to pay the obligation created by the check within 30 days after receipt of written demand for payment thereof delivered by certified or registered mail, the drawer shall be liable to the Department of Health and Hospitals for damages of twice the amount so owed, but in no case less than $100, plus attorney fees and court costs.

IV. Appeals

Any person aggrieved pursuant to the provisions determined herein shall have the right to administrative appeal as specified in R.S. 46:107

V. Exceptions

The secretary may exempt any assessment of damages or fees described in this rule.

Interested persons may submit written comments to John C. Marchand, Office of Management and Finance, Division of Fiscal Management, Box 3797, Baton Rouge, LA 70821-3797. He is responsible for responding to inquiries regarding this proposed rule.

Rose V. Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Nonsufficient Fund Check Policy

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

Additional postage of approximately $600 will be incurred. The existing staff would handle processing of the demands for payment. Any cost incurred for attorney fees and court costs would be recovered from the drawer of the check.

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

Estimated revenue would be comprised of approximately $12,000 in NSF fees, $3,000 in recovered check amounts and $160 in reimbursement for NSF bank charges for a total of $15,160.

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

The only persons or groups to be affected by implementation of this policy would be those presenting bad checks to the department who will incur the cost of the fee plus any attorney fees and court costs involved in the collection effort.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

None.

Rose V. Forrest
Secretary
9410#065

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Medicaid Funding for Abortions

The Department of Health and Hospitals, Office of Secretary, Bureau of Health Services Financing is proposing to adopt the following rule in the Medicaid Program as authorized by R.S. 46:153. This proposed rule is in accordance with Act 1 of the Fourth Extraordinary Session 1994 which amended R.S. 40:1299.34.5 and enacted 40:1299.35.7 and authorizes the Department of Health and Hospitals to promulgate the regulations governing the coverage of abortions due to rape and incest. This proposed rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Hyde Amendment to the Omnibus Budget Reconciliation Act of 1993 mandates that state Medicaid agencies provide coverage to Medicaid recipients for the termination of pregnancies due to rape and incest. Act 1 of the Fourth Extraordinary Session 1994 of the Louisiana Legislature provides for the use of public federal and state funds for abortions under certain limited circumstances, provides for the severability of the provisions thereof and authorizes the Department of Health and Hospitals to promulgate rules to insure that the funding of abortions based upon a claim of rape or incest be made in accordance with Act 1. Prior to the passage of the Omnibus Budget Reconciliation Act of 1993 and Act 1 of 1994; the Medicaid Program provided reimbursement for abortions only when the abortion was medically necessary to prevent the death of the mother.

Proposed Rule

The Bureau of Health Services Financing proposes to adopt the following requirements which will govern the reimbursement for the performance of an abortion to terminate a pregnancy resulting from rape or incest under the Medicaid Program.

A. All of the following requirements must be met prior to the performance of an abortion to terminate a pregnancy due to rape or incest in order for Medicaid reimbursement to be made for the abortion:

1. The Medicaid recipient shall report the act of rape or incest to a law enforcement official unless the treating physician certifies in writing that in the physician's professional opinion, the victim was too physically or psychologically incapacitated to report the rape or incest.

2. The Medicaid recipient shall certify that the pregnancy is the result of rape or incest and this certification shall be witnessed by the treating physician.

B. The report of the act of rape or incest to a law enforcement official or the treating physician's statement that the victim was too physically or psychologically incapacitated to report the rape or incest must be submitted to the Bureau of Health Services Financing along with the treating physician's claim for reimbursement for performing an abortion.

C. The Department of Health and Hospitals shall make quarterly reports to the Joint Legislative Budget Committee and the House and Senate Health and Welfare Committees on the amount of Medicaid funds expended on abortions to terminate pregnancies due to rape or incest.

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

A public hearing will be held on this matter at 9:30 a.m., Monday, November 28, 1994, in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day following the public hearing.

Rose V. Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Funding for Abortion

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

The estimated cost to the state associated with the implementation of this proposed rule is approximately $1,010 for SFY 1995 and $1,390 for SFY 1996 and $1,540 for SFY 1997.

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

The estimated revenue collections for state government is an increase of $2,799 for SFY 1995 and $3,691 for SFY 1996 and $4,091 for 1997. There is no estimated effect on revenue collections on local governmental units.

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

It is estimated that the combined increases shown above represent additional payments for medical services for Medicaid recipients obtaining an abortion under the conditions of this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of this rule.

Thomas D. Collins
Director
9410#068

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Minimum Standards for Licensure of Hospitals
(LAC 48:I.Chapter 93)

The Department of Health and Hospitals, Office of Secretary, Bureau of Health Services Financing, proposes to adopt the following rule as authorized by R.S. 40:2100-2115. Hospital licensure regulations are contained in the Louisiana Administrative Code 48:I.Subpart 3, Licensing and Certification, Chapter 93, Hospitals. These regulations were readopted effective April 1987 for inclusion into the 1987 publication of the Louisiana Administrative Code, (LR 13:246). Since that time there have been two revisions to these hospital licensure regulations which addressed approval of hospital plans on November 20, 1990 (LR 16:971) and the establishment of individual hospital visitation policies on September 20, 1993 (LR 19:1153). Since 1987 readoption of the hospital licensing regulations there has been a tremendous expansion of national regulations governing hospital services. Therefore, the department is proposing to establish new licensure regulations for hospitals in order to ensure that all necessary safeguards to protect and promote the health and welfare of all persons in the state. This following regulations are hereby proposed for adoption.

Title 48
PUBLIC HEALTH-GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 93. Hospitals
Subchapter A. General Provisions
§9301. Purpose

The purpose of the hospital licensing law and minimum standards are to provide for the development, establishment, and enforcement of standards for the care of individual hospitals and for the construction, maintenance, and operation of hospitals which shall promote safe and adequate treatment of such individuals in hospitals.

1. General hospitals shall provide the following professional departments, services, facilities and functions:
   a. Organization and General Services;
   b. Nursing Services;
   c. Pharmaceutical Services;
   d. Radiologic Services;
   e. Laboratory Services;
   f. Food and Dietetic Services;
   g. Medical Record Services;
   h. Quality Assessment and Improvement;
   i. Physical Environment;
   j. Infection Control.

2. General hospitals may provide the following optional services staffed by supportive personnel and directed by qualified personnel:
   a. Surgical Services;
   b. Anesthesia Services;
   c. Nuclear Medicine Services;
   d. Outpatient Services;
   e. Emergency Services;
   f. Rehabilitation Services;
   g. Respiratory Care Services;
   h. Psychiatric Services;
   i. Obstetrical and Newborn Services;
   j. Pediatric Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9302. Definitions

The following defines selected terminology used in connection with this Chapter:

Accredited—the approval by the Joint Commission on Accreditation of Healthcare Organizations or American Osteopathic Association.

Anesthesiologist—a physician, dentist, or osteopath physician, who has successfully completed an approved residency program in anesthesiology, or who is a diplomat of either the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology, or who was made a Fellow of the American College of Anesthesiology before 1972.

Approved—acceptable to the authority having jurisdiction.

Authority Having Jurisdiction—an organization, office, or individual responsible for "approving" equipment, an installation, or a procedure.

Certified Nurse Midwife—a registered nurse who by virtue of added knowledge and skill gained through an organized program of study and clinical experience recognized by the American College of Nurse-Midwives (ACNM), and subsequent certification by the ACNM, meets the requirements of the Louisiana State Board of Nursing for the advanced practice of nursing and has extended the limits of her practice into the area of management of care of mothers and babies throughout the maternity cycle so long as progress meets criteria accepted as normal.

Certified Registered Nurse Anesthetist—a registered nurse who has successfully completed the prescribed educational program in a school of anesthesia which is accredited by a nationally recognized accrediting agency approved by the United States Department of Education and is certified/re-certified by the Council on Certification/Re-certification of Nurse Anesthetists, and who renders anesthesia care in accord with L.R.S. 37:930.

Clinical Nurse Specialist—a registered nurse holding a master's degree in a specific area of clinical nursing and who uses advanced knowledge, skill and competence in the provision of direct and indirect nursing care.

Department—Louisiana Department of Health and Hospitals.

Dietary Manager—a person who:
   a. is a qualified dietitian; or
   b. is a graduate of a dietetic technician program, correspondence or otherwise, approved by the American Dietetics Association; or

c. has successfully completed a course of study, by correspondence or otherwise, which meets the minimum eligibility requirements for membership in the Dietary Manager's Association; or

d. has successfully completed a training course at a state approved school, vocational or university, which include course work in foods and food service, supervision and diet therapy. Documentation of an eight-hour course of formalized instruction in diet therapy conducted by the employing facility's qualified dietitian is permissible if the course meets only the foods, food service and supervision requirements.

Governing Body—the board of trustees, owner, or person(s) designated by the owner with ultimate authority and responsibility (both moral and legal) for the management, control, conduct and functioning of the hospital.

Hospital—any institution, place, building, or agency, public or private, whether for profit or not, devoted primarily to the maintenance and operation of facilities for 10 or more individuals for the diagnosis, treatment or care of persons admitted for overnight stay or longer who are suffering from illness, injury, infirmity or deformity or other physical condition for which obstetrical, medical or surgical services would be available and appropriate. The term *hospital* does not include the following:

a. physicians' offices, clinics, or programs where patients are not regularly kept as bed patients for 24 hours or more;

b. nursing homes as defined by and regulated under the provisions of R.S. 40:2009-2009.20;

c. persons, schools, institutions or organizations engaged in the care and treatment of mentally retarded children and which are required to be licensed by the provisions of R.S. 28:421-427;

d. hospitalization or care facilities maintained by the state at any of its penal or correctional institutions;

e. hospitalization or care facilities maintained by the federal government or agencies thereof;

f. hospitalization or care facilities maintained by any university or college.

Hospital Record—a compilation of the reports of the various clinical departments within a hospital, as well as reports from health care providers, as are customarily catalogued and maintained by the hospital medical records department. Hospital records include reports of procedures such as X-rays and electrocardiograms, but they do not include the image or graphic matter produced by such procedures.

Immediate and Serious Threat—a crisis situation in which the health and safety of patients is at risk. It is a deficient practice which indicates the operator's inability to furnish safe care and services, although it may not have resulted in actual harm. The threat of probable harm is real and important and could be perceived as something which will result in potentially severe temporary or permanent injury, disability, or death.

Licensed Bed—an adult and/or pediatric bed set up or capable of being set up within 24 hours in a hospital for the use of patients, based upon bedroom criteria expressed in these standards. Labor, delivery, newborn bassinets, emergency and recovery room beds are excluded.

Licensed Practical Nurse (LPN)—any person licensed to practice practical nursing and who is licensed to practice by the Louisiana State Board of Practical Nurse Examiners.

Minor Alteration—repair or replacement of building materials and equipment with materials and equipment of a similar type that does not diminish the level of construction below that which existed prior to the alteration. This does not include any alteration to the function or original design of the construction.

Monolithic Ceiling Construction—a continuous membrane ceiling of plaster or gypsum wallboard, but not moveable or "lay-in" ceiling tiles.

Neonatal—newborn immediately succeeding birth and continuing through the first 28 days of life.

New Construction—any of the following started after January 20, 1995:

a. new buildings to be used as a hospital;

b. additions to existing buildings to be used as a hospital;

c. conversions of existing buildings or portions thereof for use as a hospital;

d. alterations other than minor alterations to an existing hospital.

Nurses Call System—a system that audibly registers calls electronically from its place of origin (which means the patient's bed) to the place of receivership (which means the nurses' station).

Office Of the Secretary—the person serving as secretary of the department.

Organ—a human kidney, liver, heart, lung or pancreas.

Primary Nurse Associate (Nurse Practitioner)—a registered nurse who successfully completed a nurse practitioner program of studies which meets the requirements set forth in the Louisiana Administrative Code and who provides direct nursing care to individuals, families and other groups, including primary acute or chronic care which focuses on the maintenance, achievement, and restoration of optimal functions.

Radiologist—a doctor of medicine or osteopathy who is qualified by education and experience in radiology.

Registered Dietitian—a dietitian who is qualified based on registration by the Commission on Dietetic Registration of the American Dietetic Association, and licensure by the Louisiana Board of Examiners in Dietetics and Nutrition.

Registered Nurse (R.N.)—any person licensed to practice nursing by the Louisiana State Board of Nursing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9303. Licensure Process

A. Application for hospital licensure shall be submitted annually by applicants on a form supplied by the department. As a minimum, it shall contain the name(s) and address(es) of the owner(s) and shall be signed by either an owner or the hospital representative.

B. The hospital shall complete the licensure application form and return it to the department at least 15 days prior to

the expiration date of the current license or at least 15 days prior to the initial licensure survey, accompanied by a non-refundable per annum licensure fee of $400 plus $3 per bed. All fees shall be submitted by check or U. S. Postal money order only. All state-owned facilities are exempt from fees.

C. The hospital shall accept only that number of patients for which it is licensed unless prior written approval has been secured from the department.

D. If a hospital is in substantial compliance with the rules, regulations and minimum standards governing hospitals and the hospital licensing law, a license shall be issued by the department for a period of not more than 12 months, determined by the department. If a hospital is not in substantial compliance with the rules, regulations and minimum standards governing hospitals and the hospital licensing law, the department may issue a provisional license up to a period of six months if there is no immediate and serious threat to the health and safety of patients. The department also has discretion in denying, suspending or revoking a license where there has been substantial noncompliance with these requirements in accordance with the hospital licensing law. If a license is denied, suspended, or revoked, an appeal may be made as outlined in the hospital licensing law.

E. For an increase in bed capacity, a fee of $25 plus $3 per bed shall be submitted to the department along with a signed and dated attestation to the compliance with these minimum standards. The attestation may be in lieu of an on-site survey by the department.

F. For a replacement license when changes such as name change, address change, or bed reduction are requested in writing by the hospital, a fee of $25 shall be submitted.

G. A $5 processing fee shall be submitted by the hospital or issuing a duplicate facility license with no change.

H. The license shall be conspicuously posted in the hospital.

I. Licenses issued to hospitals with off-site locations shall be inclusive of the licensed off-site beds. In no case may the number of inpatient beds at the off-site location exceed the number of inpatient beds at the primary campus.

J. Approval of Plans

1. All new construction, other than minor alterations, shall be done in accordance with the specific requirements of the Office of State Fire Marshal and the Department of Health and Hospitals covering new construction in hospitals, including submission of preliminary plans and the final work drawings and specifications to each of these agencies. Preliminary plans, final work drawings and specifications shall also be submitted prior to any change in hospital type (e.g. acute care hospital to psychiatric hospital).

2. No new hospital shall hereafter be constructed, nor shall major alterations be made to existing hospitals, without the prior written approval of, and unless in accordance with plans and specifications approved in advance by the Department of Health and Hospitals and the Office of State Fire Marshal. The review and approval of plans and specifications shall be made in accordance with the publication entitled *Guidelines for Construction and Equipment of Hospital and Medical Facilities—1992-1993 Edition* published by the American Institute of Architects Press, Box 753, Waldorf, MD. 20601. Before any new hospital is licensed or before any alteration or expansion of a licensed hospital can be approved, the applicant must furnish one complete set of plans and specifications to the Department of Health and Hospitals and one complete set of plans and specifications to the Office of State Fire Marshal, together with fees and other information as required. Plans and specifications for new construction other than minor alterations shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer.

3. In the event that submitted materials do not appear to satisfactorily comply with the *Guidelines for Construction and Equipment of Hospital and Medical Facilities - 1992-1993 Edition*, the Department of Health and Hospitals shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.

4. Notice of satisfactory review from the Department of Health and Hospitals and the Office of State Fire Marshal constitutes compliance with this requirement if construction begins within 180 days of the date of such notice. This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.

K. Fire Protection. All hospitals required to be licensed by the law shall comply with the rules, established fire protection standards and enforcement policies as promulgated by the Office of State Fire Marshal. It shall be the primary responsibility of the Office of State Fire Marshal to determine if applicants are complying with those requirements. No license shall be issued or renewed without the applicant furnishing a certificate from the Office of State Fire Marshal that such applicant is complying with their provisions. A provisional license may be issued to the applicant if the Office of State Fire Marshal issues the applicant a conditional certificate.

L. Sanitation and Patient Safety. All hospitals required to be licensed by the law shall comply with the rules, Sanitary Code and enforcement policies as promulgated by the Office of Public Health. It shall be the primary responsibility of the Office of Public Health to determine if applicants are complying with those requirements. No initial license shall be issued without the applicant furnishing a certificate from the Office of Public Health that such applicant is complying with their provisions. A provisional license may be issued to the applicant if the Office of Public Health issues the applicant a conditional certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 16:971 (November 1990), LR 21:

§9305. Exceptions

Exceptions to these rules, regulations and minimum standards governing hospitals are as follows:

1. If a hospital does not provide an optional service or department, those relating requirements shall not be applicable.

2. If a hospital is accredited by the Joint Commission on Accreditation of Healthcare Organizations or American Osteopathic Association, the department shall accept such accreditation as evidence of satisfactory compliance with all provisions of these requirements, except those expressed in §9303.K and L.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

Subchapter B. Hospital Organization and Services

§9307. Governing Body

A. The hospital must have either an effective governing body or individual(s) legally responsible for the conduct of the hospital operations. No contracts/arrangements or other agreements may limit or diminish the responsibility of the governing body.

B. The governing body establishes hospital-wide policy, adopt bylaws, appoint a chief executive officer or administrator, maintain quality of care and provide an overall institutional plan and budget.

C. The governing body and/or their designee(s) shall develop and approve policies and procedures which define and describe the scope of services offered. They shall be revised as necessary and reviewed at least annually.

D. There shall be an organizational chart that delineates lines of authority and responsibility for all hospital personnel. Any change of ownership shall be reported to the department by the current governing body within at least 15 days prior to the effective date. The prospective governing body shall submit to the department a description of the transaction with the effective date, a completed application for hospital licensure and a change of ownership fee consisting of $400 plus $3 per bed at within 15 days of the effective date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9309. Medical Staff

The medical staff develops and adopts bylaws, rules and regulations for self governance of professional activity and accountability to the governing body. The bylaws, rules and regulations shall contain provisions for at least the following:

1. Medical Executive Committee:

a. to develop structure of medical staff, and categories of membership;

b. mechanism to review credentials at least every two years and delineate individual privileges;

c. make recommendations for membership to medical staff, for approval by the governing body with initial appointments and reappointments not to exceed two years;

d. mechanism for suspension and/or termination of membership to the medical staff.

2. Mechanism for fair hearing and appellate review for both potential (new) applicants and current members of medical staff.

3. Definition of the required functions of the medical staff:

a. basic-medical record review, drug usage review, pharmacy and therapeutics review, infection control, utilization review.

b. optional-surgical and other invasive procedures, blood usage.

4. The medical staff provides a mechanism to monitor and evaluate the quality of patient care and the clinical performance of individuals with delineated clinical privileges.

5. Each person admitted to the hospital shall be under the care of a member of the medical staff and shall not be admitted except on the recommendation of an attending physician.

6. There shall be a member of the medical staff on call at all times for emergency medical care of hospital patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9311. Administration

A. There shall be a full-time chief executive officer or administrator who is responsible for the operation of the hospital commensurate with the authority conferred by the governing body.

B. There shall be sufficient qualified personnel to properly operate each department of the hospital and provide quality patient care and related services.

C. All new employees including volunteer workers prior to or at the time of employment and annually thereafter shall be free of tuberculosis in a communicable state as evidenced by either:

1. a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method;

2. a normal chest X-ray, if the skin test is positive, or

3. a statement from a licensed physician certifying that the individual is non-infectious if the X-ray is other than normal.

D. All personnel shall immediately report any sign or symptoms of a communicable disease or personal illness to their supervisor or administrator as appropriate for possible reassignment or other appropriate action to prevent the disease or illness from spreading to other patients or personnel.

E. Employees with symptoms of illness that have the potential of being communicable (i.e. diarrhea, skin lesions, respiratory symptoms) shall be either evaluated by hospital staff or restricted from patient care activities during the infectious stage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9313. Staff Orientation, Training, Education and Evaluation

A. New employees shall have an orientation program of sufficient scope and duration to inform the individual about his/her responsibilities and how to fulfill them.

B. The orientation program shall include, at least, a review of policies and procedures, job description, competency evaluation and performance expectations prior to the employee performing his/her responsibilities.

C. A staff development program shall be conducted by educationally competent staff and/or consultants and planned based upon annual employee performance appraisals, patient population served by the hospital, information from quality assessment and improvement activities, and/or as determined by facility staff.

D. Records of attendance shall be maintained which indicates the content, time, names of employees in attendance and the name of the presenter.

E. At least annually the performance of all hospital employees shall be evaluated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9315. Emergency Services

If emergency services are not provided at the hospital, the governing body shall assure that the medical staff has written policies and procedures for appraisal of emergencies, initial treatment, and referral when appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9317. Organ or Tissue Donation

A. When death occurs in a hospital, to a person determined to be a suitable candidate for organ or tissue donation based on accepted medical standards, the hospital administrator or designated representative shall request the appropriate person described herein to consent to the gift of any part of the decedent's body as an anatomical gift.

B. No request shall be required when the requesting person has actual notice of contrary intention by the decedent or those persons described in this regulation according to the priority stated therein, or reason to believe that an anatomical gift is contrary to the decedent's religious beliefs.

C. Upon approval of the proper individual specified herein, the hospital administrator or designated representative shall notify an appropriate organ or tissue bank, or retrieval organization and cooperate in the procurement of the anatomical gift. When a request is made, the person making the request shall complete a certificate of request for an anatomical gift, on a form to be supplied by the Department of Health and Hospitals.

D. The certificate shall include the following:

1. a statement indicating that a request for an anatomical gift was made;

2. the name and affiliation of the person making the request.

3. an indication of whether consent was granted and, if so, what organs and tissues were donated.

4. the name of the person granting or refusing the request, and his relationship to the decedent.

E. A copy of the certificate of request shall be included in the decedent's medical records.

F. The following persons shall be requested to consent to a gift, in the order of priority stated:

1. the spouse, if one survives; if not,
2. an adult son or daughter;
3. either parent;
4. an adult brother or sister;
5. the curator or tutor of the person of the decedent at the time of his death;
6. any other person authorized or under obligation to dispose of his body.

G. A reasonable search for a document of gift or other information which may indicate that a person is a donor or has refused to make such a donation shall be made by the hospital, upon the arrival of a person who is dead or near death.

H. If a person at or near death has been admitted or is in transit to a hospital and has been identified as a donor of his body, organs, tissue, or any part thereof, the hospital shall immediately notify the named donee if one is named and known, and if not, the federally approved organ procurement agency.

I. The hospital shall cooperate in the implementation of the anatomical gift, including the removal and release of organs and tissue, or any parts thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9319. Specialty Units

A. Specialty units are designated areas in a hospital organized and dedicated to providing a specific, concentrated service to a targeted group of patients.

B. Each unit shall be organized and function as a physically identifiable section which beds are not commingled with other hospital beds.

C. Each unit shall be staffed with professional and supportive personnel, appropriate to the scope of services provided. Central support services such as dietary, housekeeping, maintenance, administration and therapeutic services may be shared with the rest of the hospital.

D. There shall be written policies and procedures which define and describe the scope of service offered, including admission criteria. The policies and procedures shall be developed and approved by the governing body. They shall be revised as necessary and reviewed at least annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9321. Emergency Preparedness

A. The hospital shall have an emergency preparedness program designed to manage the consequences of natural disasters or other emergencies that disrupt the hospital's ability to provide care and treatment or threatens the lives or safety of the hospital patients.

B. As a minimum, the program shall have a written plan that describes:

1. the evacuation of patients to a safe place either within the hospital or to another location;

2. the delivery of essential care and services to hospital patients, whether patients are housed off-site or when additional patients are housed in the hospital during an emergency; and

3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the hospital or at another location.

C. The hospital's plan shall be implemented at least semiannually, either in response to an emergency or in a planned drill. The hospital's performance during implementations of the plan is evaluated, documented, and the plan changed where indicated.

D. The hospital's plan shall be developed in coordination with the local/parish office of emergency preparedness, utilizing community wide resources.

E. The plan shall be available to representatives of the Office of State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

Subchapter C. Nursing Services

§9323. General Provisions

There shall be an organized nursing service that provides 24-hour nursing services. The nursing services shall be under the direction of a registered professional nurse licensed to practice in Louisiana, employed full time, 40 hours per week. There shall be a similarly qualified registered nurse to act in the absence of the director of nursing services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9325. Organization and Staffing

A. Written nursing policies and procedures shall define and describe the patient care provided. There shall be a written procedure to ensure that all licensed nurses providing care in the hospital have a valid and current license to practice prior to providing any care.

B. Nursing services are either furnished or supervised and evaluated by a registered nurse, and there shall be at least one registered nurse on duty for each unit at all times.

C. A registered nurse shall assign the nursing service staff for each patient in the hospital. Staffing shall be planned in accordance with the nursing needs of the patients on each unit as demonstrated by a valid and reliable patient classification system.

D. Nursing staff shall be assigned clinical and/or management responsibilities according to education, experience, an assessment of current competency and able licensing laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9327. Delivery of Services

A. A registered nurse shall perform an initial assessment of the patient and identify problems for each patient upon admission. The registered nurse may delegate part(s) of the data collection to other nursing personnel, however the registered nurse shall by signature validate the assessment.

B. A nursing plan of care shall be developed based on identified nursing diagnoses and/or patient care needs and patient care standards, implemented in accordance with the Louisiana Nurse Practice Act, and shall be consistent with the plan of all other health care disciplines.

C. Isolation precautions shall be instituted when appropriate to prevent the spread of communicable diseases within the hospital.

D. All drugs and biologicals shall be administered in accordance with the orders of the practitioner(s) responsible for the patient's care and accepted standards of practice.

E. Blood transfusions and intravenous medications are handled, labeled and administered according to state law and approved medical staff and nursing service policies and procedures.

F. Blood and blood products shall be refrigerated separately from food, beverages and laboratory specimens. An appropriate patient consent form shall be signed prior to blood transfusion administration.

G. There shall be a policy and procedure for the reporting transfusion reactions, adverse drug reactions, and errors in administration of drugs. It shall include the immediate oral reporting to the treating physician, written report to the director of pharmacy and the appropriate hospital committee, and an appropriate entry in the patient's record shall be made.

H. Safety policies and procedures shall be established for the care of patients who because of their condition are not responsible for their acts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

Subchapter D. Pharmaceutical Services

§9329. General Provisions

The hospital shall provide pharmaceutical services that meets the needs of the patients. The hospital shall have a pharmacy directed by a registered pharmacist or a drug storage area under a registered pharmacist supervision. A hospital pharmacy permit issued by the Louisiana Board of Pharmacy to allow ordering, storage, dispensing and delivering of legend

prescription orders is required for a hospital pharmacy. The hospital shall have current controlled dangerous substance license to dispense controlled substances to patients in the hospital. The pharmacy shall be directed by a registered pharmacist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9331. Organization and Staffing

A. Pharmaceutical services shall be directed by a registered pharmacist licensed to practice in Louisiana on either a full-time, part-time, or consulting basis. The director of pharmacy shall be responsible for the procurement, storage, dispensing, supervising, and management of all legend and non-legend drugs for the hospital, and shall maintain complete and accurate records of all drug transactions by the pharmacy. There shall be an adequate number of personnel to ensure quality services including emergency services, 24 hours per day, seven days per week. A pharmacist shall be on-call after hours whenever the pharmacy does not provide 24-hour service.

B. Hospital pharmacies that are not staffed on a 24-hour basis shall have an adequate security detection device.

C. Hospital pharmacies that are not open after regular working hours shall make available drugs for staff by use of a night drug cabinet which shall maintain an inventory and contain a list of these drugs which are approved by the pharmacy director along with an appropriate hospital committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9333. Delivery of Services

A. All compounding, packaging, and dispensing of drugs, biologicals, legend and controlled substances shall be accomplished in accordance with Louisiana law and Board of Pharmacy regulations and be performed by or under the direct supervision of a registered pharmacist currently licensed to practice in Louisiana.

B. Dispensing of prescription legend or controlled substance drugs direct to the public or patient by vending machines is prohibited.

C. Current and accurate records shall be kept on the receipt and disposition of all scheduled drugs. An annual inventory, at the same time each year, shall be conducted for all schedule I, II, III, IV and V drugs.

D. A hospital outpatient pharmacy shall keep all records and inventory separate and apart from that of the inpatient pharmacy, and shall require a separate pharmacy permit to operate.

E. Medications are to be dispensed only upon written physician orders, electromechanical facsimile, or physician oral orders taken by a qualified professional.

F. All inpatient drug containers shall be labeled to show at least the patient's full name, room number, the chemical or generic drug's name, strength, with quantity and date dispensed unless a unit dose system is utilized. Appropriate accessory and cautionary statements are included as well as the expiration date. Floor stock containers shall contain the name and strength of the drug, lot and control number or equivalent, and expiration date. In unit dose systems, each single unit dose package shall contain the name and strength of the drug, lot and control number or equivalent, and expiration date. Outpatient drug containers shall be labeled to show at least the patient's full name, the prescriber's name, the chemical or generic drug's name, directions, name of pharmacy and pharmacist, prescription number, and appropriate accessory and cautionary statements. Outdated, mislabeled, or otherwise unusable drugs and biologicals shall be separated from useable stock, shall not be available for patient or other use and shall be returned to an authorized agency for credit or destroyed according to current state or federal laws as applicable.

G. Drugs and biologicals not specifically prescribed as to time or number of doses shall automatically be stopped after a reasonable time that is predetermined by the medical staff.

H. The director of pharmacy shall develop and implement a procedure such that in the event of a drug recall, all employees involved with the procurement, storage, prescribing, dispensing and administering of recalled drugs in the facility will be notified to return these drugs to the pharmacy for proper disposition. Drug administration errors, adverse drug reactions, and incompatibilities shall be immediately reported to the attending physician, pharmacist and, if appropriate, to the hospital-wide quality assessment and improvement program with an entry made in the patient's record.

I. Abuses and losses of controlled substances shall be reported to the individual responsible for the pharmaceutical services, to the chief executive officer, Louisiana Board of Pharmacy, and to the Regional Drug Enforcement Administration (DEA) office, as appropriate.

J. Information relating to drug interactions and information on drug therapy, side effects, toxicology, dosage, indications for use, and routes of administration shall be available to the staff.

K. A formulary system shall be established by an appropriate hospital committee to assure quality pharmaceuticals at reasonable costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9335. Environment

A. All drugs and biologicals shall be kept in locked, well illuminated clean medicine cupboard, closet, cabinet, or room under proper temperature controls and accessible only to individuals authorized to administer or dispense drugs. A list of authorized individuals shall be developed in cooperation with the medical, nursing, administrative and pharmaceutical staff. Compartments appropriately marked shall be provided

for the storage of poisons and external use drugs and biologicals, separate from internal and injectable medications.

B. A perpetual inventory shall be maintained for all scheduled I and II controlled substances which must be reconciled weekly. These drugs shall be kept separately from other noncontrolled substances in a locked cabinet or compartment. Exceptions may be made if listed in the pharmacy policy and procedures manual and deemed necessary by the director of pharmacy to allow some abusable nonscheduled drugs to be maintained in the same locked compartment.

C. Drugs and biological requiring refrigeration shall be stored separately from food, beverages, blood and laboratory specimens.

D. The area within the pharmacy used for the compounding of sterile parenteral preparations shall be separate and apart, shall meet the minimum requirements of Board of Pharmacy regulation §2541 and be designed and equipped to facilitate controlled aseptic conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

Subchapter E. Radiologic Services

§9337. General Provisions

A. The hospital shall maintain, or have available through written contract, radiologic services according to the needs of the patients. If therapeutic services are also provided, they, as well as the diagnostic services, shall meet professionally approved standards for safety and personnel qualifications. The hospital shall comply with periodic inspections by the Department of Environmental Quality, Radiation Protection Division and correct any identified hazards promptly.

B. Radiologic services are supervised by a qualified radiologist on either a full-time, part-time or consulting basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9339. Safety

The radiologic services, particularly ionizing radiology, shall adopt written policies and procedures to provide safety for patients and personnel which are available to staff in the radiology department. These policies and procedures shall cover at least:

1. shielding for patients, personnel and facilities;
2. storage, use and disposal of radioactive materials;
3. periodic inspection of equipment and handling of identified hazards;
4. periodic checks by exposure meters or test badges on radiation workers;
5. radiologic services provided on the order of practitioners with clinical privileges or other practitioners authorized by the medical staff and the governing body to order the service; and
6. managing medical emergencies in the radiologic department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9341. Personnel

A. A qualified full-time, part-time, or consulting radiologist must supervise the ionizing radiology services and must interpret only those radiologic tests that are determined by the medical staff to require a radiologist's specialized knowledge. The radiologist shall have clinical privileges delineated by the medical staff.

B. Only personnel who are registered radiologic technologists designated as qualified by the medical staff may use the radiologic equipment and administer procedures under the direction of a physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9343. Records

Radiologic reports are signed by the practitioner who reads and interprets them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

Subchapter F. Laboratory Services

§9345. Organization and Staffing

A. The hospital shall provide laboratory services or make contractual arrangements with a laboratory certified in accordance with the Clinical Laboratory Improvement Amendments (CLIA) of 1988 to perform services commensurate with the patient needs as determined by the medical staff on a 24-hour basis. Laboratory services shall be directed by an individual who meets appropriate qualifications of a director and credentialed by the medical staff.

B. There shall be sufficient licensed qualified clinical laboratory scientists with documented training and experience to supervise the testing and sufficient numbers of licensed clinical laboratory scientists and supportive technical staff to perform the tests required of the clinical laboratory services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9347. Equipment and Records

A. There are sufficient supplies, equipment and space to perform the required volume of work with optimal accuracy, precision, efficiency, timeliness and safety.

B. The laboratory shall ensure that satisfactory provisions are maintained for a instrumentation preventive maintenance

program, an acceptable quality control program, and an approved proficiency testing program covering all types of analysis performed by the laboratory services. Records and reports are maintained, retrievable and, as appropriate, filed in the patient's medical record.

C. The hospital shall make adequate provisions for the immediate pathological examination of tissue specimens by a pathologist. The hospital shall make provisions for the procurement, storage and transfusion of blood and blood products. The administration of blood shall be monitored to detect an adverse reaction as soon as it occurs. Prompt investigation of the cause of an adverse reaction shall be instituted. The results of all tests performed in the evaluation of an actual or suspected blood transfusion reaction shall be a permanent part of the patient's medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

Subchapter G. Food and Dietetic Services

§9349. General Provisions

There shall be an organized dietary service which provides nutritional care to patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9351. Organization and Staffing

A. Food and dietetic services shall be under the supervision of a registered dietitian, licensed to practice in Louisiana, who is employed either full time, part time or on a consulting basis. If the registered dietitian is not full time, there shall be a full-time dietary manager who is responsible for the daily management of dietary services, and who is qualified by experience and training.

B. The registered dietitian shall be responsible for assuring that quality nutritional care is provided to patients by providing and supervising the nutritional aspects of patient care including nutritional screening, nutritional assessments of patients at nutritional risk, patient education related to nutritional intake and diet therapy, and recording information in the medical record regarding the nutritional status and care of the patient and the patient's response to the therapeutic diet.

C. The hospital shall employ sufficient support personnel competent in their respective duties to carry out the function of the dietary service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9353. Menus and Therapeutic Diets

A. Menus shall meet the nutritional needs of the patients in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences, or as modified in accordance with the orders of the practitioner(s) responsible for the care of the patient.

B. Therapeutic diets shall be prescribed by the practitioner(s) responsible for the care of the patient. Each patient's diet shall be documented in the patient's medical record. There shall be a procedure for the accurate transmittal of dietary orders to the dietary service and informing the dietary service when the patient does not receive the ordered diet or is unable to consume the diet.

C. There shall be a current therapeutic diet manual approved by the dietitian and medical staff, and readily available to all medical, nursing and food service personnel, which shall be the guide used for ordering and serving diets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

§9355. Sanitary Conditions

A. Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption. All food shall be procured from sources that comply with all laws and regulations related to food and food labeling. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.

B. All food shall be stored, prepared, distributed and served under sanitary conditions to prevent food borne illness. This includes keeping all readily perishable food and drink at or below 45°F, except when being prepared and served. Refrigerator temperatures shall be maintained at 45°F or below; freezers at 0°F or below.

C. Hot foods shall leave the kitchen or steam table at or above 140° F, and cold foods at or below 45°F. In-room delivery temperatures shall be maintained at 120°F, or above for hot foods and 55° F or below for cold items. Food shall be transported to patients' rooms in a manner that protects it from contamination while maintaining required temperatures.

D. All equipment and utensils used in the preparation and serving of food shall be properly cleansed, sanitized and stored. This includes maintaining a water temperature in dish washing machines at 140°F during the wash cycle (or according to the manufacturer's specifications or instructions) and 180°F for the final rinse. Low temperature machines shall maintain a water temperature of 120°F with 50 ppm (parts per million) of hypochlorite (household bleach) on dish surfaces. For manual washing in a three-compartment sink, a wash water temperature of 75°F with 50 ppm of hypochlorite or equivalent, or 12.5 ppm of iodine; or a hot water immersion at 170° F for at least 30 seconds shall be maintained. An approved lavatory shall be convenient and equipped with hot and cold water tempered by means of a mixing valve or combination faucet for dietary services staff use. Any self-closing, slow-closing, or metering faucet shall be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. Effective with the promulgation of these requirements, an additional lavatory shall be provided in the dishwasher area in newly constructed

hospitals or in existing hospitals undergoing major dietary alterations.

E. Dietary staff shall not store personal items within the food preparation and storage areas.

F. Dietary staff shall use good hygienic practices. Staff with communicable diseases or infected skin lesions shall not have contact with food if that contact will transmit the disease.

G. Toxic items such as insecticides, detergents, polishes and the like shall be properly stored, labeled and used.

H. Garbage and refuse shall be kept in durable, easily cleanable, insect and rodent-proof containers that do not leak and do not absorb liquids. Containers used in food preparation and utensil washing areas shall be kept covered after they are filled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 21:

Subchapter H. Medical Record Services

§9357. Organization and Staffing

A. There shall be a medical record department that has administrative responsibility for maintaining medical records for every person evaluated or treated as an inpatient, outpatient, or emergency patient.

B. Medical records shall be under the supervision of a medical records practitioner (i.e. registered record administrator or accredited record technician) on either a full-time, part-time or consulting basis.

C. Medical records shall be legibly and accurately written in ink, dated, signed by the recording person or, if a computerized medical records system is used, authenticated, complete, properly filed and retained, and accessible.

D. If a facsimile communications system (FAX) is used, the hospital shall take precautions when thermal paper is used to ensure that a legible copy is retained as long as the medical record is retained.

E. Written orders signed by a member of the medical staff shall be required for all medications and treatments administered to patients. There shall be a reliable method for personal identification of each patient. Verbal or telephone orders shall be signed or initialed by the prescribing practitioner as soon as possible in accordance with hospital policy but not later than 72 hours.

F. If rubber stamp signatures are authorized for physician use, the administrative office shall have on file a signed statement from the medical staff member whose stamp is involved that ensures that he/she is the only one who has the stamp and uses it. The delegation of their use by others is prohibited.

G. If electronic signatures are used, the hospital shall develop a procedure to assure the confidentiality of each electronic signature and to prohibit the improper or unauthorized use of any computer generated signature.

H. There shall be adequate medical record personnel to ensure prompt completion, filing and retrieval of records.

I. The hospital shall have a system of coding and indexing medical records. The system shall allow for timely retrieval by diagnosis and procedure, in order to support quality assessment and improvement evaluations.

J. The hospital shall ensure that all medical records are completed within 30 days following discharge.

K. A patient or his authorized representative shall be given reasonable access to the information contained in his hospital record. The hospital shall, except for good cause shown, such as medical contraindication, and upon request in writing signed and dated by either the patient or authorized representative initiating the request, furnish a copy of the hospital record as soon as practicable, not to exceed 15 days following the receipt of the request and written authorization and upon payment of the reasonable cost of reproduction in accordance with R.S. 40:1299.96.

L. A hospital record may be kept in any written, photographic, microfilm, or other similar method or may be kept by any magnetic, electronic, optical, or similar form of data compilation which is approved for such use by the department. No magnetic, electronic, optical, or similar method shall be approved unless it provides reasonable safeguards against erasure or alteration.

M. A hospital may at its discretion, cause any hospital record or part to be microfilmed, or similarly reproduced, in order to accomplish efficient storage and preservation of hospital records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9359. Content

A. The medical record shall contain the following minimum data:

1. unique patient identification data;
2. admission and discharge dates;
3. complete history and physical examination, in accordance with medical staff policies and procedures;
4. provisional admitting diagnosis and final diagnosis;
5. medical staff orders;
6. progress notes;
7. nursing documentation and care plans;
8. record of all medical care or treatments; and
9. discharge summary.

B. The medical record shall contain the following when applicable:

1. clinical laboratory, pathological, nuclear medicine, radiological and/or diagnostic reports;
2. consultation reports;
3. preanesthesia note, anesthesia record, and postanesthesia note;
4. operative report;
5. obstetrical records, including:
   a. record of mother's labor, delivery, and postpartum period;
   b. separate infant record containing date and time of birth, condition at birth, sex, weight at birth if condition permits weighing, and condition of infant at time of discharge;
   c. autopsy report; and/or
   d. any other reports pertinent to the patient's care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9361. Registers and Reports

The hospital shall have the following registers and reports, where applicable, which may be computer generated:

1. patients' register;
2. emergency room register;
3. birth register;
4. delivery room register;
5. operating room register;
6. death register;
7. analysis of hospital service via the quality assessment and improvement program, based on patient statistics; and
8. daily census report of admissions, births, discharges and deaths.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9363. Confidentiality

The hospital shall ensure the confidentiality of patient records, including information in a computerized medical record system. Information from or copies of records may be released only to authorized individuals, and the hospital must ensure that unauthorized individuals cannot gain access to or alter patient records. Original medical records shall not be released outside the hospital unless under court order or subpoena or in order to safeguard the record in the event of a physical plant emergency or natural disaster.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9365. Retention

A. Hospital records shall be retained by the hospital in their original, microfilmed, or similarly reproduced form for a minimum period of 10 years from the date a patient is discharged.

B. Graphic matter, images, X-ray films, nuclear medicine reports and like matter that were necessary to produce a diagnostic or therapeutic report shall be retained, preserved and properly stored by the hospital in their original, microfilmed,or similarly reproduced form for a minimum period of three years from the date a patient is discharged. Note: Medicare and/or Medicaid participating hospitals must maintain copies of reports and printouts, films, scans, and other image records for at least five years. Such graphic matter, images, X-ray film and like matter shall be retained for longer periods when requested in writing by any one of the following:

1. An attending or consultant physician of the patient;
2. The patient or someone acting legally in his behalf;
3. Legal counsel for a party having an interest affected by the patient's medical records.

C. A hospital which is closing shall notify the department in writing at least 14 days prior to cessation of operation of their plan for the disposition of patients' medical records for approval. The plan shall contain provisions that comply with state laws on the storage, maintenance, access and confidentiality of the closed hospital's patient medical records. It shall consists of an appointed custodian who shall provide physical and environmental security that protects against fire, water, intrusion, unauthorized access, loss and destruction. The plan shall also provide public notice on access in the newspaper, in close proximity of the closing hospital, with the largest circulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

Subchapter I. Quality Assessment and Improvement

§9367. General Provisions

The governing body shall ensure that there is an effective, written, ongoing, hospital-wide program designed to assess and improve the quality of patient care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9369. Clinical Plan

A. There is a written plan for assessing and improving quality that describes the objectives, organization, scope, and mechanisms for overseeing the effectiveness of monitoring, evaluation, and improvement activities. All organized services related to patient care, including services furnished by a contractor, shall be evaluated. Nosocomial infections and medication therapy shall be evaluated. All medical and surgical services and other invasive procedures performed in the hospital shall be evaluated as they relate to appropriateness of diagnosis and treatment. The services provided by each practitioner with hospital privileges shall be periodically evaluated to determine whether they are of an acceptable level of quality and appropriateness.

B. Each department or service of the hospital shall address:

1. patient care problems;
2. cause of problems;
3. documented corrective actions; and
4. monitoring or follow-up to determine effectiveness of actions taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9371. Patient Care Services

A. The hospital shall have an on-going plan, consistent with available community and hospital resources, to provide or make available social work, psychological, and educational services to meet the medically-related needs of its patients.

B. The hospital also shall have an effective, on-going discharge planning program that facilitates the provision of follow-up care. Each patient's record shall be annotated with a note regarding the nature of post hospital care arrangements. Discharge planning shall be initiated in a timely manner. Patients, along with necessary medical information (e.g., the patient's functional capacity, nursing and other care requirements, discharge summary, referral forms), shall be transferred or referred to appropriate facilities, agencies, or outpatient services, as needed, for follow-up or ancillary care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9373. Implementation

Each department or service of the hospital through its governing body shall take and document appropriate remedial action to address deficiencies found through the quality assessment and improvement program. The hospital shall document the outcome of the remedial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

Subchapter J. Physical Environment

§9375. General Provisions

The hospital shall be constructed, arranged, and maintained to ensure the safety and well-being of the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9377. Buildings

A. The buildings shall reflect good housekeeping and shall be free of insects and rodents by means of an effective pest control program.

B. The hospital shall maintain ventilation, lighting and temperature controls hospital-wide.

C. There shall be provision of emergency sources of critical utilities such as water and fuel during any period in which the normal supply of water and/or fuel is temporarily disrupted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9379. Nursing Units

A. A nurses' station equipped with telephone and nurses call system shall be provided in a suitable location on each nursing unit.

B. An adequate and properly equipped utility space or area shall be provided on each nursing unit for the preparation, cleaning and storage of nursing supplies and equipment which is carried out on the nursing unit. This utility space shall be so arranged as to provide for separation of clean and soiled supplies and equipment. There shall be at least one toilet bowl with accessories, lavatory basin and bathing facility reserved for patient use on each patient floor and such additional toilets, lavatories, and bathing facilities to adequately meet the needs of employees, professional personnel and patients on each nursing unit.

1. Grab bars properly located and securely mounted shall be provided at patient bathing facilities and toilet bowl with accessories.

2. A lavatory basin shall be provided in or convenient to every toilet bowel with accessories.

3. Paper towels in a satisfactory dispenser or some other acceptable type of single use towel and a satisfactory receptacle for used towels shall be provided at all lavatories.

C. Areas for the isolation of patients with communicable diseases may be established on a temporary basis as the need arises. A private room or a corridor wing may be used provided appropriate isolation techniques are enforced, including identifying signs to warn and restrict the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9381. Patient Rooms

A. All patient rooms shall be outside rooms with a window area of clear glass of not less than one-eighth of the floor area except in rooms below grade where the window area shall be not less than one-fifth the floor area.

B. In hospitals constructed prior to November 20, 1990, single rooms shall contain at least 80 square feet and multi-bed rooms shall contain at least 70 square feet per bed. In hospitals constructed subsequent to November 20, 1990, single rooms must contain at least 100 square feet and multi-bed rooms shall contain at least 80 square feet, exclusive of fixed cabinets, fixtures, and equipment, in accordance with *Guidelines for Construction and Equipment of Hospital and Medical Facilities, 1987 Edition.* In hospitals constructed subsequent to January 20, 1995, single rooms must contain at least 120 square feet and multi-bed room shall contain at least 100 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment, in accordance with *Guidelines for Construction and Equipment of Hospitals and Medical Facilities, 1993 Edition.* Any patient room shall not contain more than four beds. Rooms shall have at least 7½ foot ceiling height over the required area.

C. There shall be at least 3 feet between beds.

D. Rooms shall be arranged so as to permit the movement of a wheeled stretcher to the side of each bed.

E. There shall be sufficient and satisfactory separate storage space for clothing, toilet articles and other personal belongings of patients.

F. Every patient room shall have a lavatory. This lavatory is not necessary in rooms with an adjoining toilet or bathroom which has a lavatory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9383. Patient Room Furnishings

A. A hospital type bed with suitable mattress, pillow and necessary coverings shall be provided for each patient. There shall be a bedside stand, chair, and wardrobe, locker, or closet suitable for hanging full-length garments and storing personal effects for each patient.

B. A nurses call system within easy reach of each bed shall be provided. The call system shall also be provided in each patient toilet and bathing area.

C. Each bed in multi-bed rooms shall have approved ceiling suspended curtains, which extend around the bed to provide total visual privacy in combination with adjacent walls and curtains. A properly designed lamp or over bed light, which can be operated by the patient, shall be provided at each bed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9385. Equipment

A. Equipment shall be clean and in good repair for the safety and well-being of the patients.

B. Therapeutic, diagnostic and other patient care equipment shall be maintained and serviced in accordance with the manufacturer's recommendations.

C. All patients, when appropriate due to diagnosis, shall be provided with patient care items such as bedpan, washbasin, emesis basin, drinking glass and soap dish. These supplies and equipment shall be properly cleaned and in appropriate cases shall be sterilized between use for different patients if disposable items are not used.

D. Methods for cleaning, sanitizing, handling and storing of all supplies and equipment shall be such as to prevent the transmission of infection through their use.

E. After discharge of a patient, the bed, mattress, cover, bedside furniture, and equipment shall be properly cleaned. Mattresses, blankets and pillows assigned to patients shall be in a sanitary condition. The mattress, blankets and pillows used for a patient with an infection shall be sanitized in an acceptable manner before they are assigned to another patient. Hospitals with specialty units such as psychiatric, rehabilitative units must also comply with the physical environment requirements as expressed within §§9441 and 9455.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

Subchapter K. Infection Control

§9387. Organization and Policies

A. The hospital shall provide a sanitary environment to avoid sources and transmission of infections and communicable diseases.

B. There shall be an effective infection control program for the prevention, control, investigation and reporting of communicable disease and infections which meet or exceed the latest criteria established by the:

1. Centers for Disease Control;
2. Occupational Safety and Health Administration; and
3. Sanitary Code of State of Louisiana.

C. A person or persons qualified by education or experience and competent in infection control practices shall be designated as infection control officer(s) responsible for the development and implementation of a hospital-wide infection control program.

D. The infection control officer(s) shall develop, with approval of the medical director and governing body, policies and procedures for identifying, reporting, investigating, preventing and controlling infections and communicable diseases of patients and hospital personnel. The infection control officer(s) shall maintain a log of incidents related to infections and communicable diseases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9389. Responsibilities

The chief executive officer or administrator, the medical staff, and the director of nursing services shall ensure that the hospital-wide quality assurance program and training programs address problems identified by the infection control officer(s); and be responsible for the implementation of successful corrective action plans in affected problem areas. Infection control activities or programs conducted or instituted in different departments of the hospital shall have the approval of the infection control officer(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9391. Laundry Services

A. A supply of clean linen shall be provided by a laundry service either in house or in accordance with an outside commercial laundry service sufficient to meet the requirements of patients. All linens shall be handled, cleaned, sanitized, stored and transported in such a way as to prevent infection.

B. Clean linen is delivered in such a way as to minimize microbial contamination from surface contact or airborne deposition. Soiled linen is collected in such a manner as to minimize microbial dissemination into the environment. All linen shall be laundered between patient use.

C. Contaminated laundry shall be specially handled according to the hospital's written protocol, which is approved by the infection control officer(s). Linen soiled with blood or body fluids shall be bagged in identifiable impervious containers distinguishable from other laundry. If laundry chutes exists, linen shall be bagged and the chutes shall empty into an enclosed collection room.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9393. Central Supply

A. Space shall be provided for the preparation, storage, handling and distribution of sterile supplies and other patient care items. Functional design shall provide for the separation of soiled and contaminated supplies from those that are clean and sterile. All central supply departments shall adhere to strict traffic control in their departments. Air circulation systems in central supply shall be negative pressure in decontamination and ethylene oxide areas and positive pressure in all clean areas.

B. Handwashing facilities are provided in all work areas. There shall be written policies and procedures for the decontamination and sterilization of supplies and equipment, shelf life of all stored sterile items, and reuse of disposable items in accordance with the latest criteria established by the Centers for Disease Control.

C. All steam sterilizing equipment shall have live bacteriological spore monitoring performed at least weekly and with each load containing an implantable device. If tests are positive, a system shall be in place to recall supplies.

D. All ethylene oxide sterilizing equipment shall have live bacteriological spore monitoring performed with each load. There shall be ventilation of the room used for this sterilization to the outside atmosphere and there shall be a system in place to monitor trace gases of ethylene oxide at least monthly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9395. Isolation

A. At least one isolation room, designed to minimize infection hazards to or from the patient, shall be provided for each 30 acute-care beds (excluding psychiatric beds) or a fraction thereof. In existing hospitals prior to the adoption of these requirements, adequate provisions determined by the hospital's infection control officer(s) shall be provided. Disease-specific infection control procedures (barrier precautions) shall be documented and followed.

B. Each isolation room shall contain only one bed and shall comply with the acute-care patient room section of this document as well as the following:

1. Room entry shall be through a work area that provides for facilities that are separate from patient areas for handwashing, gowning, and storage of clean and soiled materials;

2. Separate enclosed anteroom(s) for isolation rooms are not required as a minimum but, if used, viewing panel(s) shall be provided for observation of each patient by staff from the anteroom;

3. One separate anteroom may serve several isolation rooms;

4. Toilet, bathtub (or shower), and handwashing facilities are required for each isolation room. These shall be arranged to permit access from the bed area without the need to enter or pass through the work area of the vestibule or anteroom;

5. Isolation room utilized for patients with airborne infections shall have all room air vented to the outside atmosphere and there shall be no return air vents within that room.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9397. Waste and Hazardous Materials Management

The hospital shall have a written and implemented waste management program that identifies and controls wastes and hazardous materials. The program shall comply with all applicable laws and regulations governing wastes and hazardous materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

Subchapter L. Surgical Services (Optional)

§9399. General Provisions

If surgical services are provided, the services must be well organized and provided in accordance with acceptable standards of practice. If outpatient surgical services are offered, the services must be consistent in quality with inpatient care in accordance with the complexity of services offered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9401. Organization and Staffing

A. Surgical services shall be under the medical direction of a qualified physician who is a member of the medical staff and appointed by the governing body.

B. Surgical privileges shall be delineated for all practitioners performing surgery in accordance with the competencies of each practitioner. The surgical services shall maintain a roster of practitioners specifying the surgical privileges of each practitioner.

C. The surgical suite shall be supervised by a registered nurse experienced and competent in the management of surgical services.

D. A qualified registered nurse shall perform circulating duties for surgical procedures performed. In accordance with the needs of patients and the complexity of services performed, licensed practical nurses and operating room technicians may assist in circulatory duties under the supervision of a registered nurse who is immediately available to respond to emergencies. Licensed practical nurses and operating room technicians may perform scrub functions under the supervision of a registered nurse.

E. The operating room register shall be complete and up-to-date. It shall include at least the patient's name, patient's hospital identification number, date of the operation, inclusive or total time of the operation, name of the surgeon and any assistant(s), name of nursing personnel (scrub and circulating), type of anesthesia used and name of person administering it, and operation performed.

F. An operative report describing techniques, findings, and tissue removed or altered shall be written or dictated immediately following surgery and signed by the surgeon. It shall include at least the name and hospital identification number of patient, date of surgery, name of surgeon and assistant(s), pre-operative and post-operative diagnoses, name of the specific surgical procedure(s) performed, type of anesthesia administered, complications, if any, a description of techniques, findings, and the tissues removed or altered, and prosthetic devices or implants used, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9403. Delivery of Service

A. There shall be a complete history and physical work-up in the chart of every patient prior to surgery, except in emergency surgery. If the history and physical has been dictated, but not yet recorded in the patient's chart, there shall be a statement to that effect and an admission note in the chart by the practitioner who admitted the patient.

B. A properly executed informed consent form for the operation must be in the patient's chart before surgery, except in emergencies. The consent form shall contain at least the name of the patient, hospital and patient identification number, name of procedure(s) or operation, the reasonably foreseeable risks and benefits involved, name of practitioner(s), signature of patient or legal guardian, date and time the consent is obtained, and signature and professional designation of person witnessing consent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9405. Surgery Suite and Equipment

A. The surgical suite shall be appropriately equipped and consist of clear floor area to accommodate the equipment and personnel required, allowing for aseptic technique.

B. The surgical suite(s) shall be located in a segregated area out of the line of traffic of visitors and personnel from other departments and arranged such as to prevent traffic through them.

C. There shall be scrub-up facilities providing hot and cold running water and equipped with knee, foot or elbow faucet controls provided in the surgical suite.

D. There shall be provision for washing instruments and equipment, which are to be cleaned within the surgical suite. If an autoclave is present, the same operating requirements referenced in Subchapter K, Infection Control, §9387 shall be implemented.

E. The emergency equipment in the surgical suite shall include a communication system that connects each operating room with a control center, cardiac monitor, resuscitator, defibrillator, aspirator, and tracheotomy set.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9407. Post-Operative Area

A. There shall be a post-operative care area (recovery room) which is a separate area of the hospital, unless provisions are made for close observation of the patient until they have regained consciousness (e.g. direct observation by an R. N. in the patient's room). Access shall be limited to authorized personnel. There shall be policies and procedures which specify transfer requirements to and from the post-operative area.

B. There shall be at least two health care personnel, one of which is a registered nurse, present whenever there is a patient. There shall be emergency equipment in the immediate area of the post-operative area and monitoring equipment used on each patient that is commensurate with the surgical procedure and the medical requirements of the patient. That equipment shall include but not be limited to the following:

1. Electric Cardiac Graph (EKG/ECG) monitor;
2. pulse oxymeter monitor
3. temperature monitoring equipment;
4. equipment to administer oxygen;
5. equipment necessary to monitor vital signs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

Subchapter M. Anesthesia Services (Optional)

§9409. General Provisions

A. If anesthesia services are provided, which is mandatory when surgical or obstetric services are provided, they must be provided in a well organized manner under the direction of a qualified doctor of medicine or osteopathy.

B. The standards in this Subchapter M apply to services for all patients who:

1. receive general, spinal, or other major regional anesthesia; or

2. undergo surgery or other invasive procedures when receiving general, spinal, or other major regional anesthesia and/or intravenous, intramuscular, or inhalation sedation/analgesia that, in the manner used in the hospital, may result in the loss of the patient's protective reflexes.

C. Invasive procedures include, but are not limited to percutaneous aspirations and biopsies, cardiac and vascular catheterization, and endoscopies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9411. Organization and Staffing

A. Anesthesia services shall be administered by practitioners with appropriate clinical privileges obtained through a mechanism that assures that each practitioner provides only those services for which they have been determined to be competent. Those practitioners include:

1. a qualified anesthesiologist;
2. a doctor of medicine or osteopathy;
3. a dentist, oral surgeon, or podiatrist who is qualified to administer anesthesia under state law;
4. a certified registered nurse anesthetist (CRNA) who meets the requirements of §930 of the Louisiana Nurse Practice Act (R.S. 37:911) and who is under the supervision of the operating practitioner or of an anesthesiologist who is immediately available if needed; or
5. a bona fide student enrolled in a school of nurse anesthesia accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs whose graduates are acceptable for certification by a nationally recognized certifying body may administer anesthesia as related to such course of study under the direct supervision of a certified registered nurse anesthetist or an anesthesiologist.

B. The individual administering the anesthesia shall be present throughout its administration and attending the patient until the patient is under the care of postanesthesia staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9413. Delivery of Service

A. Policies on anesthesia procedures must include the delineation of preanesthesia and postanesthesia responsibilities. As a minimum, they shall address:

1. the qualifications, responsibilities and supervision required of all personnel who administer anesthesia;
2. patient consent for anesthesia;
3. infection control measures;
4. safety practices in all anesthetizing areas;
5. protocol for supportive life functions, e.g., cardiac and respiratory emergencies;
6. reporting requirements;
7. documentation requirements;
8. inspection and maintenance reports on all supplies and equipment used in anesthesia;
9. trace gas reports; and

10. temperature and humidity records in each operating room used on the day(s) that anesthesia is administered.

B. The policies must also ensure that the following are provided for each patient:

1. a preanesthesia evaluation performed and recorded within 48 hours prior to surgery by an individual qualified to administer anesthesia;

2. a reevaluation of each patient immediately prior to induction of anesthesia;

3. an intraoperative anesthesia record that records monitoring of the patient during anesthesia and documentation of at least the following:

a. prior to induction of the anesthesia, all anesthesia drugs and equipments to be used has been rechecked and are immediately available and are determined competent by the practitioner who is to administer the anesthetic;

b. dosages and total dosages of all drugs and agent used;

c. type and amount of all fluid administered, including blood and blood products;

d. technique(s) used;

e. unusual events during the anesthesia period;

f. the status of the patient at the conclusion of anesthesia;

g. a postanesthesia follow-up report written within 48 hours after surgery on inpatients and prior to discharge for patients undergoing one-day/same-day surgery by the individual who administers the anesthesia or another fully qualified practitioner within the anesthesia section; and

h. a postanesthesia evaluation for proper anesthesia recovery performed in accordance with policies and procedures approved by the medical staff on outpatients.

C. The anesthesia policy and procedure manual shall ensure that the following are provided for each patient undergoing:

1. general anesthesia:

a. the use of an anesthesia machine that provides the availability and use of safety devices including, but not limited to an oxygen analyzer, pressure and disconnect alarm, pin-index safety system, gas-scavenging system, and oxygen pressure interlock system;

b. continuous monitoring of the patient's temperature and vital signs, as well as the continuous use of an Electric Cardiac Graph (EKG/ECG), pulse oxymeter monitoring, end tidal carbon dioxide volume monitoring, and peripheral nerve stimulator monitoring;

2. regional anesthesia (major nerve blocks):

a. all equipment listed in the above list for general anesthesia shall be immediately available and in the operating room where the procedure is being performed;

b. continuous monitoring of the patient's vital signs, and temperature, as well as the continuous use of an EKG/ECG, and pulse oxymeter monitoring; and

c. monitored by the practitioner who administered the regional anesthetic or individuals identified as a practitioner listed in §9411.A.

3. local anesthesia (infiltration or topical):

a. all equipment as listed in §9413.C.1.a shall be available in the operating room where the procedure is taking place;

b. continuous monitoring of the patient's vital signs and temperature as well as the continuous use of an EKG/ECG, and pulse oxymeter monitoring; and

c. monitored by the practitioner who administered the local anesthetic or a practitioner listed within §9411.A.

4. The requirements in Subchapter M, Anesthesia Services, apply to services for all patients who:

a. receive general, spinal, or other major regional anesthesia; or

b. undergo surgery or other invasive procedures when receiving general, spinal, or other major regional anesthesia and/or intravenous, intramuscular, or inhalation sedation/analgesia that, in the manner used in the hospital, may result in the loss of the patient's protective reflexes. Invasive procedures include, but are not limited to, percutaneous aspirations and biopsies, cardiac and vascular catheterizations, and endoscopies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

Subchapter N. Nuclear Medicine Services (Optional)

§9415.

If the hospital provides nuclear medicine services or contracts for the service, those services must meet the needs of the patients in accordance with acceptable standards of practice and provided in a safe and effective manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9417. Organization and Staffing

A. The organization of the nuclear medicine services shall be appropriate to the scope and complexity of the services offered. There shall be a director who is a doctor of medicine or osteopathy qualified in nuclear medicine and named in the Department of Environmental Quality, Radiation Protection Division radioactive material license as authorized to use radioactive materials in humans.

B. Nuclear medicine services shall be ordered only by a practitioner whose scope of federal or state licensure and defined staff privileges allow such referrals.

C. The qualifications, training, functions, and responsibilities of nuclear medicine personnel must be specified by the service director and approved by the medical staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9419. Delivery of Service

A. Radioactive materials shall be prepared, labeled, used, transported, stored, and disposed of in accordance with acceptable standards of practice.

B. In-house preparation of radiopharmaceutical shall be by, or under the supervision of an appropriately trained registered pharmacist or a doctor of medicine or osteopathy whose use of radioactive materials is authorized in the facility's Department of Environmental Quality, Radiation Protection Division radioactive material license.

C. There is proper storage and disposal of radioactive material. If clinical laboratory tests are performed in the nuclear medicine service, the service shall meet the requirement for clinical laboratories with respect to management, adequacy of facilities, proficiency testing and quality control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9421. Facilities

A. Equipment and supplies shall be appropriate for the types of nuclear medicine services offered and shall be maintained for safe and efficient performance.

B. The equipment shall be maintained in safe operating condition, and inspected, tested, and calibrated at least annually by qualified personnel. The nuclear medicine service shall have and follow a preventive maintenance schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9423. Records

A. The hospital shall maintain signed and dated reports of nuclear medicine interpretations, consultations, and procedures. The hospital shall maintain copies of nuclear medicine reports in accordance with the retention requirement specified in Subchapter H, Medical Record Services.

B. The practitioner approved by the medical staff and authorized by the facility's Department of Environmental Quality, Radiation Protection Division radioactive material license to interpret diagnostic procedures shall sign and date the interpretations of these tests.

C. The hospital shall maintain records of the receipt and disposition of radiopharmaceutical.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

Subchapter O. Outpatient Services (Optional)

§9425. General Provisions

If the hospital provides outpatient services, the services must meet the needs of the patients in accordance with acceptable standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9427. Organization

Outpatient services shall be appropriately organized and integrated with inpatient services. There shall be established methods of communication as well as established procedures to assure integration with inpatient services that provide continuity of care. When outpatients are admitted, pertinent information from the outpatient record shall be in the inpatient record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9429. Personnel

The hospital shall assign an individual to be responsible for the outpatient services. There shall be appropriate professional and non-professional personnel available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9431. Facilities

All outpatient facilities shall be accessible to and usable by handicapped employees, staff, visitors, and patients. There shall be at least a receptionist desk, waiting space, an examination room equipped with a lavatory and nurse call system, public toilet facilities, public telephone and drinking fountain.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

Subchapter P. Emergency Services (Optional)

§9433. General Provisions

If emergency services are provided, the service shall be provided in an easily accessible area where ill or injured persons can be promptly assessed, treated, or transferred to a facility capable of providing needed specialized services. The services shall be available 24 hours a day and provided in accordance with acceptable standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9435. Organization

A. Emergency services shall have written policies and procedures which define and describe the scope of services offered, assures the integration of emergency services with other hospital services, and governs referrals if a clinical specialty service is not provided.

B. The emergency services shall be organized under the direction of a qualified member of the medical staff, and a roster of on-call medical staff with service specialty shall be maintained. The services shall be integrated with other departments of the hospital.

C. The emergency service area shall be supplied with basic trauma equipment, suction and oxygen equipment, and cardiopulmonary resuscitation equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9437. Personnel

A. The emergency services shall make provisions for physician coverage at all hours, and a qualified member of the medical staff shall be designated to supervise emergency services. There shall be a registered nurse and other nursing service personnel qualified in emergency care to meet written emergency procedures and needs anticipated by the hospital. All registered nurses working in the emergency room shall be certified in advanced cardiac life support as well as in pediatric advanced life support.

B. There are specific assigned duties for emergency care personnel with a clear chain of command.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9439. Record

A. The hospital shall maintain an emergency room register on every individual seeking care containing the following minimum data:

1. name, age and sex of patient;
2. date, time and means of arrival;
3. nature of complaint;
4. disposition;
5. time of departure;
6. name of on-call or treating physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

Subchapter Q. Rehabilitation Services (Optional)

§9441. General Provisions

If the hospital provides a range of rehabilitation services, including but not limited to physical therapy, occupational therapy, audiology, or speech pathology services, the services shall be organized and staffed to ensure the health and safety of patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9443. Organization and Staffing

A. The organization of the service shall be appropriate to the scope of the services offered.

B. There shall be a director of the service who shall have the administrative authority and responsibility for implementing the hospital's policies. The director shall have the knowledge, experience, and capabilities to properly supervise and administer the services. The director may serve on either a full-time or part-time basis.

C. Physical therapy, occupational therapy, or speech therapy, or audiology services, if provided, shall be provided by staff who meet the qualifications in accordance with Louisiana law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9445. Delivery of Services

A. Rehabilitation services shall be furnished in accordance with a written plan of treatment based upon an assessment performed by the qualified professional. The written plan of treatment shall be established prior to the beginning of treatment. The plan of treatment shall consists of at least treatment goals and type, amount, frequency and duration of services.

B. Rehabilitation services shall be given in accordance with orders of practitioners who are authorized by the medical staff to order the services. The orders shall be incorporated in the patient's medical record.

C. The patient's progress shall be documented on a timely and regular basis in accordance with written policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9447. Facilities

Space and equipment shall be appropriate for the types of rehabilitation services offered and shall be maintained for safe and efficient performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

Subchapter R. Respiratory Care Services (Optional)

§9449. General Provisions

If the hospital provides respiratory care services, those services shall meet the needs of the patients in accordance with acceptable standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9451. Organization and Staffing

A. The organization of the respiratory care services shall be appropriate to the scope and complexity of the services offered. There shall be a director of the service who shall have the administrative authority and responsibility for implementing the hospital's policies. The director shall be a doctor of medicine or osteopathy with the knowledge, experience, and capabilities to supervise and administer the services properly. The director may serve on either a full-time or part-time basis.

B. There shall be adequate numbers of respiratory therapists, respiratory therapy technicians, and other personnel who meet the qualifications specified by the medical staff and approved by the governing body, consistent with Louisiana law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9453. Delivery of Services

A. Respiratory care services shall be delivered in accordance with medical staff directives and incorporated in the patient's medical record. The order shall specify the type, frequency and duration of treatment, and as appropriate, the type and dose of medication, type of diluent, and the oxygen concentration. All respiratory care services provided shall be documented in the patient's medical record, including the type of therapy, date and time of administration, effects of therapy, and any adverse reactions.

B. Personnel qualified to perform specific procedures and the amount of supervision required for personnel to carry out specific procedures shall be designated in writing.

C. If blood gases or other clinical laboratory tests are performed in the respiratory care unit, the unit shall meet the requirement for clinical laboratories with respect to management, adequacy of facilities, proficiency testing and quality control as set forth in Subchapter F of these requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

Subchapter S. Psychiatric Services (Optional)

§9455. General Provisions

These requirements are applicable to those hospitals which are primarily engaged in providing psychiatric services for the diagnosis and treatment of mentally ill persons or have organized a physically and functionally distinct part unit within the hospital to provide these services. Pediatric and adolescent psychiatric units shall be physically separated from adult psychiatric units.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9457. Facilities

A. The layout, design of details, equipment, and furnishings shall be such that patients shall be under close observation and shall not be afforded opportunities for hiding, escape or injury to self or others. The environment of the unit shall be characterized by a feeling of openness with emphasis on natural light and exterior views. Interior finishes, lighting, and furnishings shall suggest a residential rather than an institutional setting while conforming with applicable fire safety codes. Security and safety devices shall not be presented in a manner to attract or challenge tampering by patients.

B. Windows or vents shall be arranged and located so that they can be opened from the inside to permit venting of combustion products and to permit any occupant direct access to fresh air in emergencies. The operation of operable windows shall be restricted to inhibit possible escape or suicide. Where windows or vents require the use of tools or keys for operation, the tools or keys shall be either located on the same floor in a prominent location accessible to staff or carried by every staff member. Where glass fragments pose a hazard to certain patients, safety glazing and/or other appropriate security features shall be used. There shall be no curtain or venetian blind chords.

C. Where grab bars are provided, they shall be institutional type, shall not rotate within their fittings, be securely fastened with tamper-proof screwheads, and shall be free of any sharp or abrasive elements. If grab bars are mounted adjacent to a wall, the space between the wall and the grab bar shall be 1½ inches.

D. Where towel racks, closet and shower curtain rods are provided, they shall be the breakaway type.

E. Plastic bags and/or trash can liners shall not be used in patient care areas.

F. Electrical receptacles shall be of the safety type or protected by five-milliampere ground-fault-interrupters.

G. There shall be outdoor space for patient recreation.

H. Patient Rooms

1. A nurses call system is not required, but if it is included, provisions shall be made for easy removal, or for covering call button outlets;

2. Bedpan-flushing devices may be omitted from patient room toilets in psychiatric nursing units;

3. Handwashing facilities are not required in patient rooms;

4. Visual privacy (e.g., cubicle curtains) in multi-bed rooms is not required;

5. Free standing closets shall be secured to the wall.

I. Service Areas

1. A secured storage area controlled by staff shall be provided for patients' belongings that are determined to be potentially harmful (e.g., razors, nail files, cigarette lighter);

2. Drugs and biologicals are stored in locked compartments under proper temperature controls, and only authorized personnel have access to the keys;

3. Food service may be one or a combination of the following:

a. a nourishment station;

b. a kitchenette designed for patient use with staff control of heating and cooking devices;

c. a kitchen service including a handwashing fixture, storage space, refrigerator, and facilities for meal preparation;

d. storage space for stretchers and wheelchairs may be outside the psychiatric unit, provided that provisions are made for convenient access as needed for handicapped patients;

e. in each such hospital or unit, separate toilet rooms shall be provided for men and women. A minimum of one toilet room shall be wheelchair accessible for each sex;

f. in each such hospital or unit, a bathtub or shower shall be provided for each six beds not otherwise served by bathing facilities within the patient rooms. Bathing facilities shall be designed and located for patient convenience and privacy;

g. a separate charting area shall be provided with provisions for acoustical privacy. A viewing window to permit observation of patient areas by the charting nurse or physician may be used if the arrangement is such that patient files cannot be read from outside the charting space;

h. at least two separate social spaces, one appropriate for noisy activities and one for quiet activities, shall be provided. The combined area shall be at least 40 square feet per patient with at least 120 square feet for each of the two spaces. This space may be shared by dining activities;

i. space for group therapy shall be provided. This may be combined with the quiet space noted above when the unit accommodates not more than 12 patients, and when at least 225 square feet of enclosed private space is available for group therapy activities;

j. an automatic washer and dryer shall be provided for patient laundry;

k. room(s) for examination and treatment with a minimum area of 120 square feet shall be provided within the unit;

l. separate consultation room(s) with minimum floor space of 100 square feet each, provided at a room-to-bed ratio of one consultation room for each 12 psychiatric beds shall be provided within the unit for interviews with patients and their families. The room(s) shall be designed for acoustical and visual privacy and constructed to achieve a noise reduction of at least 45 decibels;

m. psychiatric hospitals or units shall provide 15 square feet of separate space per patient for occupational therapy, with a minimum total area of at least 200 square feet, whichever is greater. This space shall include provision for

handwashing, work counter(s), storage, and displays. Occupational therapy areas may serve more than one nursing unit. When the psychiatric nursing unit(s) contain fewer than 12 beds, the occupational therapy functions may be performed within the noisy activities area, if at least an additional 10 square feet per patient served is included;

n. a conference and treatment planning room for use by the psychiatric unit shall be provided.

J. Seclusion Treatment Room

1. There shall be at least one seclusion room for up to 24 beds or a major fraction thereof. It is intended for short-term occupancy by violent or suicidal patient and provides for patients requiring security and protection. The room(s) shall be either located for direct nursing staff supervision or observed through the use of electronic monitoring equipment;

2. If electronic monitoring equipment is used, it shall be connected to the hospital's emergency electrical source;

3. Each room shall be for single occupancy and contain at least 60 square feet. It shall be constructed to prevent patient hiding, escape, injury, or suicide;

4. Where restraint beds are required by the functional program, 80 square feet shall be required;

5. If a facility has more than one psychiatric unit, the number of seclusion rooms shall be a function of the total number of psychiatric beds in the facility and they may be grouped together;

6. Special fixtures and hardware for electrical circuits shall be used;

7. Minimum ceiling height shall be 9 feet;

8. Doors shall be 3 feet 8 inches wide, and shall permit staff observation of the patient while also maintaining provisions for patient privacy;

9. Seclusion rooms shall be accessed by an anteroom or vestibule which also provides direct access to a toilet room;

10. The toilet room and anteroom shall be large enough to manage the patient safely;

11. Where the interior of the seclusion treatment room is padded with combustible materials, these materials shall be of a type acceptable to the local authority having jurisdiction. The room area, including floor, walls, ceilings, and all openings shall be protected with not less than one-hour-rated construction.

K. Ceiling construction in psychiatric patient rooms and seclusion room(s) shall be monolithic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9459. Supplies and Equipment

A. Restraint equipment shall be immediately available and accessible to staff.

B. Recreational supplies and therapy equipment shall be available and in locked storage.

C. Locked storage areas shall be available for safekeeping of patient luggage and contraband items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9461. Staffing

A. Such hospital or unit shall provide qualified professional, technical and consultative personnel to evaluate patients, formulate written individualized comprehensive treatment plans, provide active treatment measures and engage in discharge planning.

B. Such hospital or unit shall employ a clinical director, who meets the training and experience requirements for examination by the American Board of Psychiatry and Neurology, or the American Osteopathic Board of Neurology and Psychiatry. The clinical director must monitor and evaluate the quality and appropriateness of services and treatment provided by the medical staff.

C. Such hospital or unit shall employ a registered nurse as director of psychiatric nursing services who has:

1. a master's degree in psychiatric or mental health nursing; or

2. a master's degree in a related field such as psychology or nursing education and five years nursing experience and three years providing nursing care to the mentally ill; or

3. bachelor's, associate degree or diploma in nursing with documented evidence of educational programs focused on treating psychiatric patients, which has occurred at intervals sufficient enough to keep the nurse current on psychiatric nursing techniques. In addition, the nurse shall have at least five years of nursing experience and three years providing nursing care to the mentally ill, or receive regular, documented supervision/consultation from a master's prepared psychiatric nurse.

D. In addition to the director of psychiatric nursing service, such hospital or unit shall provide 24-hour registered nurse coverage with adequate number of licensed nurses and mental health workers to provide the nursing care necessary under each patient's active treatment program. Psychological services shall be provided by or supervised by a psychologist licensed by the Louisiana State Board of Examiners of Psychologists. Social services shall be provided by a director with a master's degree from an accredited school of social work or must be qualified by education and experience in the social services needs of the mentally ill. If the director does not hold a master's degree in social work, at least one staff member must have this qualification.

E. Therapeutic activities such as art leisure counselling, recreational therapy, etc. shall be provided by activity therapists, adequate in number to respond to the therapeutic activity needs of the patient population being served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

Subchapter T. Obstetrical and Newborn Services (Optional)

§9463. General Provisions

These requirements are applicable to those hospitals which provide obstetrical and newborn services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9465. Obstetrical Units

There are four obstetrical levels-of-care units established: Obstetrical Level I Unit, Obstetrical Level II Unit, Obstetrical Level III Unit and Obstetrical Level III Regional Unit. If obstetrical services are provided, the hospital shall satisfy the basic Obstetrical Level I Unit requirements. Obstetrical services shall be provided in accordance with acceptable standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9467. Obstetrical Unit Functions

A. Obstetrical Level I Unit

1. Care and supervision for low risk pregnancies shall be provided.

2. A triage system shall exist for identification, stabilization and referral of high risk maternal and fetal conditions beyond the scope of care of a Level I Unit.

3. There shall be a transfer agreement with a hospital which has an Obstetrical Level III Unit and/or Obstetrical Level III Regional Unit.

4. The unit shall provide detection and care for unanticipated maternal-fetal problems encountered in labor.

5. The unit shall have the capability to perform cesarean delivery within 30 minutes of the decision to do so.

6. Blood and fresh frozen plasma for transfusion shall be immediately available.

7. Anesthesia, radiology, ultrasound, electronic fetal monitoring (along with personnel skilled in its use) and laboratory services shall be available on a 24-hour basis.

8. Postpartum care facilities shall be available.

9. There shall be resuscitation and stabilization capability of all inborn neonates.

10. A qualified physician or Certified Nurse Midwife shall attend all deliveries.

B. Obstetrical Level II Unit

1. This unit shall meet all requirements of all Obstetrical Level I Unit services at a superior level.

2. There shall be management of high risk conditions appropriate for the level of medical, nursing support and technical expertise available.

3. The role of an Obstetrical Level II Unit is to provide excellent levels of care for most obstetric conditions in its population, but not to accept transports of obstetrical patients with gestation age of less than 30 weeks or 1250 grams if delivery is imminent and likely to result in the delivery of such infant.

4. Conditions which would result in the delivery of an infant weighing less than 1250 gm or less than 30 weeks gestation shall be referred to a Level III or Level III Regional obstetrical unit unless the patient is too unstable to transport safely. Cooperative agreements with Obstetrical Level III and/or Obstetrical III Regional Units for transfer of these patients shall exist for all Obstetrical Level II Units.

5. There shall be performance of all Level I unit services at a superior level.

6. The unit shall be able to manage maternal complications of a mild to moderate nature that do not surpass the capabilities of a well trained board certified obstetrician/gynecologist.

7. The needed subspecialty expertise is predominantly neonatal although perinatal cases might be appropriate to co-manage with a perinatologist.

8. Ultrasound shall be available on labor and delivery 24 hours a day.

C. Obstetrical Level III Unit

1. The unit shall meet all Obstetrical Level I and II Unit services at a superior level.

2. There shall be provision of comprehensive perinatal care for high risk mothers both admitted and transferred. Pregnancies at highest risk shall be managed in these units. Pregnancies marked by extreme prematurity, need for fetal intervention, significant maternal illness (acute or chronic) shall be referred to an Obstetrical Level III or III Regional Unit.

3. Obstetric imaging capabilities to perform targeted ultrasound examination in cases of known abnormalities shall be available.

4. Genetic counseling and diagnostics shall be provided as a comprehensive service.

5. Research and educational support to practitioners in the community shall be provided through organized outreach educational programs.

6. This unit shall provide for and coordinate maternal transport with Obstetrical Level I and II Units.

7. Cooperative transfer agreements with Obstetrical Level III Regional Units shall exist for the transport of mothers or fetuses requiring care unavailable in an Obstetrical Level III Unit or that are better coordinated at an Obstetrical Level III Regional Unit.

8. There shall be an initial evaluation of new high-risk technologies.

9. There shall be performance of all Level I and II Unit services at a superior level.

10. The unit shall provide care for the most premature labors.

11. The unit shall provide care for the most challenging of fetal conditions. Only those conditions requiring a medical team approach not available to the perinatologist in an Obstetrical Level III Unit shall be transported to an Obstetrical Level III Regional Unit.

12. The unit shall provide for the most challenging of maternal conditions. Only those conditions requiring an OB/ICU environment or specialty support unavailable in an Obstetrical Level III Unit shall be transported to an Obstetrical Level III Regional Unit.

13. Anesthesia services shall be in-house 24 hours per day.

D. Obstetrical Level III Regional Unit

1. The unit shall meet all requirements and performance of Level I, II and III NICU Unit services at a superior level.

2. There shall be a continuing commitment to maintain a depth and breadth of support specialties available in only the most sophisticated of medical centers.

3. These units shall provide for and coordinate maternal and neonatal transport with Level I, II and III NICU Units throughout the state.

4. Initial evaluation of new technologies shall be a goal of an Obstetrical Level III Regional Unit.

5. Hospitals with these units shall be recognized as a medical center of excellence, and a center of research, educational and consultative support to the medical community.

6. The unit shall have the ability to care for both mother and fetus in a comprehensive manner in an area dedicated to the care of the critically ill parturient.

7. An organized team dedicated to the care of the mother and of the fetus both in utero and after delivery shall be maintained. The team shall consist of, but is not limited to, specialists in the following areas: maternal fetal medicine, cardiology, neurology, neurosurgery and hematology. Additionally, subspecialists to provide expertise in the care of the critically ill parturient shall be on staff in the following areas: adult critical care, cardiothoracic surgery, nephrology, pulmonary medicine, cardiology, endocrinology, urology, neurosurgery, infectious disease and gastroenterology. A nutritionist shall also be available in the care of these patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9469. Medical Staff

A. Obstetrical Level I Unit. Obstetrical services shall be under the medical direction of a qualified physician who is a member of the medical staff with obstetric privileges and appointed by the governing body. This physician has the responsibility of coordinating perinatal services with the pediatric medical director.

B. Obstetrical Level II Unit

1. Chief of obstetric services shall be a board certified/board eligible obstetrician with special interest and experience in maternal-fetal medicine. This obstetrician has the responsibility of coordinating perinatal services with the neonatologist in charge of the NICU.

2. Anesthesia personnel with credentials to administer obstetric anesthesia shall be readily available.

3. Policies regarding the availability of anesthesia for routine and emergency deliveries shall be developed. Specialized medical and surgical consultation shall be readily available by medical staff members.

4. A board certified radiologist and a board certified clinical pathologist shall be available 24 hours a day. Specialized medical and surgical consultation shall be readily available.

C. Obstetrical Level III Unit

1. The chief of the obstetrical unit providing maternal-fetal medicine service at a Level III Unit shall be a board certified or board eligible maternal-fetal medicine specialist or a board certified obstetrician with special interest and experience in maternal-fetal medicine who shall be designated as the chief to assure that appropriate care is provided by the primary attending physician for high risk maternal patients.

2. If there is no hospital based maternal-fetal medicine specialist, a strong consultative agreement shall exist through a formal transfer agreement with an Obstetrical Level III or Level III Regional Obstetrical Unit with a hospital based maternal-fetal medicine specialist. The agreement shall also provide for a review of outcomes and case management for all high risk obstetrical patients for educational purposes.

3. A board certified anesthesiologist with special training or experience in maternal-fetal anesthesia shall be in charge of obstetric anesthesia services at a Level III Unit. Personnel with credentials to administer obstetric anesthesia shall be in-house 24 hours a day, which would include CRNA's. Personnel with credentials to administer neonatal and pediatric anesthesia shall be available as required. Medical and surgical consultation shall be readily available and on staff.

D. Obstetrical Level III Regional NICU Unit

1. The medical staff as outlined in the Level III Unit classification shall be available and shall coordinate care with the subspecialties as listed within an Obstetrical Level III Regional Unit function.

2. The chief of the perinatal team at the Level III Regional NICU Unit must be a board certified maternal-fetal specialist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9471. Facilities

A. Obstetrical patients shall not be placed in rooms with other types of patients.

B. At least one toilet and lavatory basin shall be provided for the use of obstetrical patients.

C. The arrangement of the rooms and areas used for obstetrical patients shall be such as to minimize traffic of patients, visitors, and personnel from other departments and prevent traffic through the delivery room(s).

D. There shall be an isolation room provided with handwashing facilities for immediate segregation and isolation of a mother and/or baby with a known or suspected communicable disease.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9473. Newborn Units

There are four neonatal levels-of-care units established: Level I Neonatal Unit, Level II NICU Unit, Level III NICU Unit and Level III Regional NICU Unit. If neonatal services are provided, the hospital shall satisfy the basic Neonatal Level I NICU Unit requirements. Neonatal services shall be provided in accordance with acceptable standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9475. Neonatal NICU Unit Functions

A. Level I Neonatal Unit

1. The unit shall be able to evaluate the condition of healthy neonates and provide continuing care of these neonates until their discharge in compliance with state regulations regarding eye care, hearing screening, and metabolic screening.

2. The unit shall stabilize unexpectedly small or sick neonates before transfer to a Level II, III or III Regional NICU Unit.

3. The unit shall maintain consultation and transfer agreements with a Level II, III and III Regional NICU Units, emphasizing maternal transport when possible.

4. There shall be resuscitation and stabilization of all inborn neonates.

5. There shall be a defined nursery area with limited access and security or rooming-in facilities.

6. Parent-neonate visitation/interaction shall be provided.

7. There shall be the capability of data collection and retrieval.

B. Level II NICU Unit

1. The unit shall meet all requirements and performance of all Level I Neonatal Unit services at a superior level.

2. There shall be management of small, sick neonates with a moderate degree of illness that are admitted or transferred.

3. There shall be neonatal ventilatory support, vital signs monitoring, and fluid infusion in the defined area of the nursery.

4. Neonates born in a Level II NICU Unit with a birth weight of less than 1000 grams shall be transferred to a Level III or Level III Regional NICU Unit once they have been stabilized if they require prolonged ventilatory support or have life threatening diseases or surgical complications requiring a higher level of care.

5. Neonates with a birth weight in excess of 1000 grams who require prolonged ventilation therapy shall be cared for in a Level II NICU Unit, provided such facility performs a minimum of 72 days of ventilator care annually. A day of ventilator care is defined as any period of time during a 24 hour period.

6. If a Level II NICU Unit performs less than 72 ventilator days per year, it shall transfer any neonate requiring prolonged (greater than 24 consecutive hours) ventilator therapy to a Level III or Level III Regional NICU Unit. Neonates requiring transfer to a Level III or Level III Regional NICU Unit may be returned to a Level II NICU Unit for convalescence.

C. Level III NICU Unit

1. The unit shall meet all requirements of the Level I Neonatal Unit and Level II NICU Unit services at a superior level.

2. There shall be provision of comprehensive care of high risk neonates of all categories admitted and transferred.

3. There shall be a neonatal transport agreement with Level III Regional Unit and shall be involved in organized outreach educational programs.

4. There shall be one neonatologist for every 10 patients in intensive care (Level III NICU unit) area. If the neonatologist is not in-house, there shall be one licensed physician who has successfully completed the Neonatal Resuscitation Program (NRP), or one neonatal nurse practitioner in-house for Level III NICU unit patients who require intensive care. A five year phase-in period shall be allowed in order for the hospital to recruit adequate staff to meet these requirements.

5. Obstetrics and neonatal diagnostic imaging, provided by obstetricians or radiologists who have special interest and competence in maternal and neonatal disease shall be available 24 hours a day.

6. There shall be a neonatologist or a licensed physician who has successfully completed the Neonatal Resuscitation Program (NRP), or a neonatal nurse practitioner in-house at all times.

D. Neonatal Level III Regional NICU Unit

1. The unit shall meet all requirements of the Level I Neonatal Unit and Level II and III NICU unit services at a superior level.

2. The unit shall have a transport team and provide for and coordinate maternal and neonatal transport with Level I, Neonatal Unit and Level III NICU's throughout the state.

3. The unit shall be recognized as a medical center of excellence, and a center of research, educational and consultative support to the medical community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9477. Medical Staff

A. Level I Neonatal Unit. The unit's medical director and/or department chief shall be a board eligible or board certified pediatrician; or a board eligible or board certified family practitioner on staff.

B. Level II NICU Unit. A board certified pediatrician of a Level II NICU unit with subspecialty certification in neonatal medicine shall be the medical director and/or department chief. In existing units, consideration shall be given to waiving this requirement for board certified pediatricians with a minimum of five years experience in neonatal care who are currently serving as medical directors of Level II NICU units. The request for waiver shall be made in writing to the Office of the Secretary.

C. Level III NICU Unit. The medical director and/or department chief of a Level III NICU unit shall be a board-certified pediatrician with subspecialty certification in neonatal medicine. The following exceptions are recognized:

1. Board eligible neonatologists shall achieve board certification with five years of completion of fellowship training.

2. In existing units, consideration shall be given to waiving this requirement for neonatologists who are currently medical directors and/or department chiefs of Level III NICU's. The request for waiver shall be made in writing to the Office of the Secretary/Bureau of Health Services Financing. This exception applies only to the individual at the hospital where the medical director and/or department chief position is held. The physician can not relocate to another hospital nor can the hospital replace the medical director and/or department chief for whom the exception was granted and retain the exception.

3. There shall be one neonatologist for every 10 patients in the intensive care Level III NICU unit area. If the neonatologist is not in-house, there shall be one licensed physician (who has successfully completed the neonatal resuscitation program [NRP]), or one neonatal nurse practitioner in-house for Level III NICU unit patients who require intensive care. A five year phase-in period shall be allowed in order for the hospital to recruit adequate staff to

meet these requirements. A Level III NICU unit shall have a neonatologist, or a licensed physician (who has successfully completed the neonatal resuscitation program [NRP]), or a neonatal nurse practitioner in-house at all times.

4. Medical and surgical consultation shall be readily available and pediatric subspecialists may be used in consultation with a transfer agreement with a Level III Regional NICU unit.

D. Level III Regional NICU Unit:

1. The medical director and/or department chief shall be a board certified neonatologist.

2. The unit shall have the following subspecialties on staff and clinical services available to provide consultation and care in a timely manner:

a. Pediatric Surgery;
b. Pediatric Cardiology;
c. Pediatric Neurology;
d. Pediatric Hematology;
e. Genetics;
f. Pediatric Nephrology;
g. Endocrinology;
h. Pediatric Gastroenterology;
i. Pediatric Infectious Disease;
j. Pediatric Pulmonary Medicine;
k. Cardiovascular Surgery;
l. Neurosurgery;
m. Orthopedic Surgery;
n. Pediatric Urologic Surgery;
o. Pediatric Ophthalmology;
p. Pediatric ENT Surgery;
q. Pediatric Nutritionist;
r. Pediatric PT/OT;
s. Neonatal Social Services;
t. Bioethics Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9479. Staffing

A. Level I Neonatal Unit. A nurse manager dedicated for the neonatal care area shall be available to all units. The nurse manager shall have specific training and experience in neonatal care. The nurse manager shall participate in the development of written policies and procedures for the neonatal care areas, coordinate staff education and budget preparation with the medical director. The nurse manager shall name qualified substitutes to fulfill his or her duties during their absences. Nurse to patient ratios will vary with patient needs; however, the range for Level I shall be 1:8.

B. Level II NICU Unit. A nurse manager dedicated for the neonatal care area shall be available to all units. The nurse manager shall have specific training and experience in development of written policies and procedures for the neonatal care areas, coordinate staff education and budget preparation with the medical director. The nurse manager shall name qualified substitutes to fulfill his or her duties during their absences. Nurse to patient ratios will vary with patient needs; however, the range for Level II shall be 1:3-4.

C. Level III NICU Unit. A nurse manager dedicated for the neonatal care area shall be available to all units. The nurse manager shall have specific training and experience in the development of written policies and procedures for the neonatal care areas, coordinate staff education and budget preparation with the medical director. The nurse manager shall name qualified substitutes to fulfill his or her duties during their absences. Nurse-to-patient ratios will vary with patient needs; however, the range for Level III NICU unit shall be 1:2-3.

D. Level III Regional NICU Unit. A nurse manager dedicated for the neonatal care area shall be available to all units. The nurse manager shall have specific training and experience in Neonatal Intensive Care. The nurse manager shall participate in the development of written policies and procedures for the neonatal care areas, coordinate staff education and budget preparation with the medical director. The nurse manager shall name qualified substitutes to fulfill his or her duties during their absences. Nurse to patient ratios will vary with patient needs; however, the range for Level III Regional unit shall be 1:1-2.

E. The following support personnel shall be available to the perinatal care service of Level II, III and III Regional NICU units:

1. At least one full-time medical social worker who has experience with the socioeconomic and psychosocial problems of high-risk mothers and fetuses, sick neonates, and their families (additional medical social workers may be required if the patient load is heavy).

2. At least one occupational or physical therapist with neonatal expertise.

3. At least one registered dietitian/nutritionist who has special training in perinatal nutrition and can plan diets that meet the special needs of high-risk mothers and neonates.

4. Qualified personnel for support services such as laboratory studies, radiologic studies, and ultrasound examinations (these personnel shall be readily available 24 hours a day).

5. Respiratory therapists or nurses with special training who can supervise the assisted ventilations of neonates with cardiopulmonary disease (optimally, one therapist is needed for each four neonates who are receiving assisted ventilation).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

Subchapter U. Pediatric Services (Optional)

§9481. General Provisions

A. Pediatric services shall be under the medical direction of a qualified physician who is a member of the medical staff with pediatric privileges and appointed by the governing body. Hospitals admitting children shall have proper facilities for their care apart from adult patients and the newborn. Children under 14 years of age shall not be placed in rooms with adult patients.

B. In hospitals with a separate designated pediatric unit in existence prior to January 20, 1995, the maximum number of beds permitted in each pediatric room shall be eight and shall meet the same spatial standards as specified in Subchapter K of these requirements. In hospitals with a separate designated pediatric unit subsequent to January 20, 1995, the maximum number of beds permitted in each pediatric room shall be four

and shall meet the same spatial standards as specified in Subchapter K of these requirements. Patient rooms containing cribs shall provide at least 60 square feet minimum clear floor area for each crib, with no more than six cribs in each room. Provisions for hygiene, toilets, sleeping, and personal belongings shall be included where the program indicates that parents are allowed to remain with pediatric patients. Equipment and supplies shall be readily available and appropriate for pediatric services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9483. Personnel

Every registered nurse who works in pediatric unit shall be trained in an emergency nursing pediatric course that includes training in pediatric trauma and pediatric advanced life support and that has been conducted pursuant to guidelines established by the Louisiana State Board of Nursing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9485. Pediatric Intensive Care Units

A. There are two levels of pediatric care units, Level I and II. If pediatric intensive care services are provided, the hospital shall satisfy the Level II PICU requirements.

B. Level I and II units shall have a PICU Committee established as a standing committee of the hospital. It shall be composed of at least physicians, nurses, respiratory therapists and other disciplines as appropriate to the specific hospital unit. The committee shall participate in delineation of privileges for all personnel (both MD and non-MD) within the unit. Policies and procedures shall be established by the medical director and the nurse manager in collaboration with the committee and approval of the medical staff and governing body. These written include, but not limited to, safety procedures infection control, visitation, admission and discharge criteria, patient monitoring and record keeping, equipment preventive maintenance and repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9487. Facilities

A. The Level I and II shall be distinct, separate units within the hospital. There shall be clean and soiled utility rooms, isolation room capabilities, medication and a conference area available on the units.

B. Level I units shall be located in Category 1 facility as defined by the American Academy of Pediatrics.

C. The Emergency Department (ED) shall have a separate covered entrance. Two or more areas within the ED shall have the capacity and equipment to resuscitate any pediatric patient with any medical, surgical or traumatic illness facilities within Level I units. Hospitals with Level II units only need one such area. The emergency room shall be staffed 24 hours a day in facilities with either Level I of II units.

D. There shall be a operating suite with one room available within 30 minutes and a second room within 45 minutes 24 hours a day. Hospital with Level I units must have the capability or providing cardiopulmonary bypass, pediatric bronchoscopy and radiography.

E. Clinical laboratories shall have microspecimen capability, clotting studies with one hour turn around capability. There must also be the capability to perform complete blood cell count, differential count, platelet count, urinalysis, electrolytes, blood urea nitrogen, creatine, glucose calcium, prothrombin time, partial prothrombin time, and cerebrospinal fluid cell counts. Preparation of gram stains and bacteriologic cultures shall be available 24 hours per day. Blood gas values must be available within 15 minutes. Results of drug screening and levels of serum ammonia, serum and urine osmolarity, phosphorus and magnesium shall be available within three hours for Level I units.

F. There must be a blood bank able to provide all blood components 24 hours a day in both Level I and II. Cross matching shall allow for transfusions within one hour unless some unusual antibody is encountered.

G. Hospitals with Level I units must have radiology services capable of radiography, fluoroscopy, computerized tomography scanning, ultrasonography, and nuclear scanning angiography.

H. Diagnostic cardiac and neurologic studies shall be available to both level I and II unit facilities.

I. A catheterization laboratory or angiography suite must be present in facilities with Level I units.

J. Level I units shall have the capability to provide hemodialysis 24 hours a day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9489. Patient Rooms

A. The head of each bed and/or crib shall be rapidly accessible for emergency airway management.

B. Electrical power, oxygen, medical compressed air and vacuum outlets shall be available at each bed/crib.

C. There shall be walls or curtains available at each bedside to provide for full visual privacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9491. Medical Staff

A. The medical director in Level I unit shall be:

1. board-certified in pediatrics and board certified or in the process of board certification in Pediatric Critical Care Medicine must be completed within five years;

2. board certified in anesthesiology with practice limited to infants and children with special qualifications (as defined by the American Board of Anesthesiology) in critical care medicine; and

3. board certified in pediatric care medicine (as defined by the American Board of Surgery). A Level II medical director shall meet the same criteria of level I except the board certification in Pediatric Critical Medicine is not required. The medical director shall name a qualified alternate to serve in his absence.

B. In existing units, consideration will be given too waiving this requirement for board certified pediatricians with a minimum of five years experience in pediatric care who are currently serving as medical directors of Level I and II units. The request for waiver shall be made n writing to the Office of the Secretary.

C. Level I and II units must have at least one physician of at least the postgraduate year 2 assigned to the PICU in house 24 hours per day.

D. Other physicians including the attending physician or designee shall be available within 30 minutes.

E. Level I units shall have on staff a pediatric anesthesiologist, surgeon, cardiothoracic surgeon, neurosurgeon, intensivist, cardiologist, gastroenterologist, allergist or immunologist, as well as a radiologist, pathologist and psychiatrist or psychologist. Level II units shall meet the above medical staff except the cardiothoracic surgeon the pediatric subspecialties. There shall be a five year phase-in period with regard to staffing requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9493. Staffing

A. Level I and II shall have a unit manager dedicated to the unit who is a registered nurse with specific training and experience in pediatric critical care. The Level I manager shall be certified in Critical-care Nursing. The nurse manager shall name a qualified alternate to act in his/her absence.

1. The staff to patient ratio shall vary with the acuity of the patients; however, the minimum shall be 1:3.

2. There shall be an organized written orientation program as well as an ongoing in-service/continued education program.

B. For the Level I units the respiratory therapy staff assigned to unit shall be in-house 24 hours per day.

1. Biomedical technicians shall be available within one hour, 24 hours a day.

2. Unit clerk shall be readily available to the unit 24 hours a day.

3. A pharmacist and radiology technician shall be in-house 24 hours a day.

4. Social worker, physical therapist and nutritionist are assigned to the unit as applicable.

C. For the Level II Units the respiratory therapist in -house 24 hours a day:

1. Biomedical technician available within one hour, 24 hours a day;

2. Pharmacist and Radiologist on call 24 hours a day;

3. Unit clerks, social worker, physical therapist and nutritionist available as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9495. Supplies and Equipment

A. There shall be lifesaving therapeutic and monitoring equipment present in Level I and II units. There shall be a complete "code" or "crash" cart available on both Level I and II units. The cart contents should include, but not be limited to approved medications, a defibrillator/cardioverter, automated blood pressure apparatus devices available on Level I and II units. All equipment shall be of proper size for infants and children. Oxygen tanks are needed for transport and backup for both Level I and II units.

B. There will be additional equipment available to meet the needs of the patient population.

C. Level I units shall have the capability of ventilator support.

D. There shall be bedside monitoring in Level I and II PICUs with the capability for continuously monitoring heart rate and rhythm, respiratory rate, temperature and one hemodynamic pressure. In Level I, units shall also have the ability to monitor systemic arterial, central venous, pulmonary arterial and intracranial pressures. The monitors must have alarms with both high and low settings and they must also have both audible and visible capability. There shall be a maintenance ad calibration schedule maintained for all monitoring devices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9497. Miscellaneous

A. PICUs shall be integrated with the regional EMS system as available. Rapid access to a Poison Control Center is essential. Each PICU shall have or be affiliated with a transport; system and team to assist other hospitals in arranging safe patient transport.

B. Each Level I PICU shall offer pediatric critical care education for EMS providers, emergency department and transport personnel as well as for the general public. The staff nurses and respiratory therapists must also have Basic Life Support Certification.

C. A Level I PICUs offering a fellowship Program in Pediatric Critical Care will possess sufficient patient volume, teaching expertise, and research capability to support its program. Programs providing sub-specialty training in critical care must possess approval by the Residency Review Committee of the Accreditation Council on Graduate Medical Education. Research is essential for improving our understanding of the pathophysiology affecting vital organ systems. Such knowledge is vital to improve patient care techniques and therapies and thereby decrease morbidity and mortality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

Interested persons may submit written comments on this proposed rule to Thomas D. Collins, Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030.

A public hearing will be held on this matter at 9:30 a.m., Monday, November 28, 1994, in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. Also, at that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally. The deadline date for

receipt of all comments is 4:30 p.m. on the day following the public hearing.

Rose V. Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Minimum Standards for Licensure of Hospitals

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated cost to the state associated with the implementation of this proposed rule is $500 for administrative expenditures for SFY 1995 but no expenditures are projected for SFY 1996 and SFY 1997.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated revenue collections for state government is an increase of $500 for SFY 1995 but no revenue collections are projected for 1996 and 1997. There is no estimated effect on revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is no estimated fiscal impact on existing hospitals as a result of this proposed rule. In order to participate in the Medicaid and Medicare Programs, hospitals must comply with either the Federal Conditions of Participation, or be accredited by the Joint Commission on Accreditation of Healthcare Organizations. These organizations have more stringent standards than contained in this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment as a result of this rule.

Thomas D. Collins
Director
9410#004

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Justice
Office of the Attorney General

Deceptive Pricing

The Consumer Protection Section of the Department of Justice proposed to adopt the following regulations concerning deceptive pricing. R.S. 51:1405(B) allows the Consumer Protection Section of the Office of the Attorney General to promulgate rules and regulations consistent with the provisions in R.S. 51:1 et seq.

The proposed rules will simply redefine and update the current regulations concerning deceptive pricing.

Copies of this proposed rule can be obtained from the Office of the State Register, Box 94095, Baton Rouge, LA 70804-9095 and from the Department of Justice, Consumer Protection Section at the address listed below.

Interested persons may submit written comments to the following address: Jennifer A. Johnson, Consumer Protection Section, Louisiana Department of Justice, Box 94095, Baton Rouge, LA 70804-9095. She is responsible for responding to inquiries regarding this proposed rule.

David Kimmel
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Deceptive Pricing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no cost for implementation of 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 government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no cost and/or economic benefit that would directly affect persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment as the proposed regulations simply redefine and update the current deceptive pricing regulations.

David Kimmel
Director
9410#069

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Natural Resources
Office of the Secretary
Energy Division

Energy Rated Homes Fee Schedule (LAC 43:I.101)

The Energy Division of the Department of Natural Resources, under the authority granted by R.S. 36:354, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., gives notice that the rulemaking procedures have been initiated to promulgate a fee schedule for the services to be offered by the new Energy Rated Homes of Louisiana (ERHL) Section. These services, which relate to residential energy efficiency and indoor air quality, will be offered to the public as well as to public and private entities.

Title 43
NATURAL RESOURCES
Part I. Office of the Secretary
Chapter 1. Energy Rated Homes
§101. ERHL Fee Schedule

A. As required by R.S. 36:354, the following fees shall be

assessed in order to provide funding for services offered by the new Energy Rated Homes of Louisiana section of the Department of Natural Resources, Energy Division.

Ratings	
Regular Ratings	$50/hr. with minimum 4 hours
Ratings Requiring Post Retrofit Inspection	$50/hr. with minimum 5 hours
House Plan Review	$50/hr. with minimum 2 hours
Residential Walk-Through Audits	$50
Training	$10/hr./student or actual costs incurred
Building Diagnostics	
Energy Use	$50/hr.
Moisture Damage	$50/hr.
Indoor Air Quality	
On-Site Time	$50/hr.
Equipment Charges for 10-Day Monitoring Period	$200

B. All fee payments shall be made by check, draft or money order to Energy Rated Homes of Louisiana, Department of Natural Resources, Energy Division, P.O. Box 44156, Baton Rouge, LA 70804-4156.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:354.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Energy Division, LR 21:

Interested persons may submit written comments on the proposed fee schedule until 5 p.m., December 2, 1994, at the following address: Ben Bryant, Department of Natural Resources, Energy Division, Box 44156, Baton Rouge, LA 70804-4156.

A public hearing will be held on November 29, 1994, in the Mineral Board Hearing Room, State Lands and Natural Resources Building, 625 N. Fourth Street, Baton Rouge, LA, beginning at 1:30. The meeting must end by 5:30, due to the building construction schedule. Interested persons are invited to attend and submit oral comments on the proposed fee schedule.

Jack McClanahan
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Energy Rated Homes Fee Schedule

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

The Energy Rated Homes of Louisiana program will be funded with Petroleum Violation Escrow (PVE) monies and self-generated revenues. The estimated cost to implement the program will be approximately $182,133 for fiscal year 1994-95, $214,240 for fiscal year 1995-96, and $245,112 for fiscal year 1996-97. Beginning fiscal year 1997-98 it is expected that the program will be self-supporting from the fees charged for its services.

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

Increases in revenue to the state will be based upon an entirely voluntary mechanism whereby those persons requesting our services will be charged for them according to the proposed fee schedule. The Department of Natural Resources has estimated that state revenues will increase as a result of this action by only a negligible amount in fiscal year 1994-95, but by $50,000 in fiscal year 1995-96, and by $100,000 in fiscal year 1996-97.

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

The costs to those persons or groups requesting our services will be according to the fee schedule. It is anticipated that those who make use of our services will accrue a net economic gain in the long run, as a result of implementing the energy or health conserving strategies of which we will advise them.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition. It is hoped that there will be a positive effect on employment in the long run, in the home-building and related industries, resulting from an increasing consumer demand for quality (i.e. energy efficiency) and even quantity of homes (to result from promoting Energy Efficient Mortgages, which stretch home buyers' debt to income ratio, and also possibly from a loan buy-down program that will hopefully be part of the program).

Robert D. Harper
Undersecretary
9410#042

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of State Police

Civil Penalties (LAC 55:III.701)

In accordance with R.S. 32:1312 et seq., and under authority conferred by Title 32 of the Louisiana Revised Statutes in general; and particularly the Department of Public Safety and Corrections, Office of State Police gives notice that rulemaking procedures have been initiated to adopt Civil Penalties, LAC 55:III.701.

This regulation is being adopted to allow the Office of State Police to impose a Civil Penalty against any Motor Vehicle Inspection station or Mechanic Inspector who has committed an act which is in violation of the provisions of this chapter relative to the operation of an official inspection station or the actual conduct of a motor vehicle safety inspection.

Title 55
PUBLIC SAFETY
Part III. Motor Vehicle
Chapter 7. Louisiana Motor Vehicle Safety Inspection Program
§701. Civil Penalty

Violations of the operation of an official inspection station or the actual conduct of a motor vehicle inspection shall be grouped as follows:

A. Administrative violations are any violation of the operation of an official inspection station not to include the actual conduct of a motor vehicle safety inspection,(station management requirements, etc.).

B. Inspection violations are any violation of the actual conduct of a motor vehicle safety inspection excluding inspection to vehicles requiring D.O.T. or school bus inspections.

C. D.O.T./school bus is any violation of the actual conduct of a motor vehicle safety inspection of vehicles requiring D.O.T. or school bus inspections.

D. Civil Penalties shall be assessed at the following rate:

1. Administrative Violation	$25 per violation
2. Inspection Violation	$50 per violation
3. D.O.T./School Bus	$75 per violation

E. The maximum penalty per occurrence as set by R.S. 32:1312 is $1,000. The increased penalty per violation from a minimum of $25 to a maximum of $75 per violation is intended to reflect the impact to the public from violation of the operation of an official inspection station and the conduct of a motor vehicle safety inspector.

F. If an inspection station or mechanic inspector receives three Civil Penalties within a 12-month period, this shall be grounds to remove said inspection station or mechanic inspector from the Motor Vehicle Safety Inspection Program. This in no way intends to impede the ability of the department from removing an inspection station or mechanic inspector at any time with proper cause.

G. The Office of State Police shall impose Civil Penalties after affording the accused an opportunity for a fair and impartial hearing to be held in accordance with the Administrative Procedure Act.

After the hearing process has been exhausted and upon the decision of the Office of State Police to impose Civil Penalties has been upheld, Civil Penalties shall be imposed as previously stated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1312 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 20:

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than November 30, 1994 at 4:30 p.m. to Captain Donald Moreau, Commander, Motor Vehicle Police, Office of State Police, Department of Public Safety and Corrections, Box 66614, Baton Rouge, LA 70896 or to 109 S. Foster Drive, Baton Rouge, LA 70896.

Paul Fontenot
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Civil Penalties

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

The estimated implementation costs to the state are $4,500 for the first year and $4,500 thereafter. The costs will be incurred in printing expenses. The source of these funds will be the State Police, Safety Enforcement budget.

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

The estimated revenues resulting from implementation of this rule depends on the number of Motor Vehicle Inspection Stations and mechanic inspectors who violate the statutes, policies and procedures of the Louisiana Motor Vehicle Safety Inspection Program. For the fiscal year 1992-1993 the department suspended or revoked 348 stations or mechanic inspectors. Based on a minimum civil penalty of $25 and a maximum of $1,000 per incident, the projected revenue could range from a minimum of $8,700 to a maximum of $348,000 (no statistics are kept on the number of violations per suspension or revocation).

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

The only persons or businesses who will be impacted by this rule are those certified Motor Vehicle Inspection Stations or mechanic inspectors who violate any statute, policy or procedure of the Louisiana Motor Vehicle Safety Inspection Program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Rex McDonald
Undersecretary
9410#073

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Social Services
Office of Family Support

Food Stamps—Certification of Eligible Households
(LAC 67:III.Chapter 19)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III, Subpart 3, the Food Stamp Program.

Pursuant to compliance with Public Law 103-66, the food stamp provisions of which are called the Mickey Leland Childhood Hunger Relief Act, changes in Food Stamp

Program policy are necessary. Changes were generally intended to eliminate inconsistent policies and increase participation. Some sections of the Louisiana Administrative Code will be repealed because their subject information appears in other sections. Since various provisions of the law were effective at different times, emergency rulemaking was also done at the appropriate times.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 3. Food Stamps
Chapter 19. Certification of Eligible Households
Subchapter A. Household Concept
§1901. Household Composition

A. The definition of a household includes an individual or a group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

B. Separate household status may not be granted to the following individuals or groups of individuals, even if they purchase and prepare meals separately:

1. spouses who live together;

2. natural, adopted or step-children, age 21 or under, who live with their parents, unless the child lives with his/her own child(ren) or is married and lives with his/her spouse;

3. children under 18 who live with and are under the parental control of a household member (other than their parent), unless the child lives with his/her own child(ren) or is married and lives with his/her spouse.

C. The definition of a household provides that elderly individuals (and their spouses) who cannot prepare their own meals because they suffer from disabilities considered permanent under the Social Security Act or some other physical or mental non-disease-related disabilities may be a separate household even if living and eating with others. This is limited to those cases where the gross income of the individuals with whom the elderly or disabled person resides does not exceed 165 percent of the poverty level.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:52328 et seq., F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.1, P.L. 100-77, P.L. 103-66.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), amended LR 9:62 (February 1983), LR 9:130 (March 1983), LR 13:643 (November 1987), LR 14:87 (February 1988), amended by the Department of Social Services, Office of Family Support, LR 20:

Subchapter H. Resource Eligibility Standards
§1947. Resources

A. An IRA, or individual retirement account, less the amount that would be lost as penalty for early withdrawal of the entire account, is included in a households resources.

B. The fair market value of vehicles which is excluded in determining a household's resources is $4,550.

AUTHORITY NOTE: Promulgated in accordance with F.R. 7:55463 et seq. and 47:55903 et seq., 7 CFR 273.8, P.L. 103-66.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 20:

§1949. Exclusions from Resources

A. The following are excluded as a countable resource:

1. nonliquid asset(s) against which a lien has been placed as a result of taking out a business loan and the household is prohibited by the security or lien agreement with the lien holder (creditor) from selling the assets;

2. property, real or personal, to the extent that it is directly related to the maintenance or use of an income producing vehicle or a vehicle necessary to transport a physically disabled household member. Only that portion of real property determined necessary for maintenance or use is excludable under this provision;

3. inaccessible resource, that is, one whose sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. Verification shall be required only if the information provided by the household is questionable;

4. the value of a vehicle used to carry the primary source of fuel for heating or water for home use.

B. All of the resources of recipients of AFDC, SSI, and aid to the aged, blind, or disabled under Titles I, II, X, XIV, or XVI of the Social Security Act are excluded.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.8 and 273.9C(v), P.L. 103-66.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:429 (August 1987), amended LR 13:656 (November 1987), LR 17:953 (October 1991), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 20:

Subchapter I. Income and Deductions
§1955. Earned Income Deduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), repealed by the Department of Social Services, Office of Family Support, LR 20:

§1963. Adjustment of Shelter Deduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), repealed by the Department of Social Services, Office of Family Support, LR 20:780 (July 1994), LR 20:

§1964. Standard Shelter Estimate

Homeless households which do not receive free shelter throughout the calendar month shall be entitled to a Standard Shelter Estimate (SSE). All homeless households which incur or reasonably expect to incur shelter costs during a month shall be eligible for the SSE unless higher shelter costs are verified. If shelter costs in excess of the SSE are verified, the household may use actual costs.

AUTHORITY NOTE: Promulgated in accordance with F.R. 56:63614, 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), amended, LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 20:

§1965. Standard Utility Allowance (SUA)

A. The Food Stamp Program shall maintain the provision that allows households to use a single standard utility allowance or actual verified utility costs in calculating shelter costs. The SUA shall be available only to households which incur heating or cooling costs separate and apart from their rent or mortgage. To be qualified, the household must be billed on a regular basis for months in which the household is actually billed for heating or cooling costs. However, during the heating season a household that is billed less often than monthly, but is eligible to use the standard allowance, may continue to use the standard allowance between billing months.

The SUA is available to those households receiving energy assistance payments or reimbursements but who continue to incur heating or cooling costs that exceed the payment during any month covered by the certification period.

B. Any household living in a housing unit which has central utility meters and which charges the household for excess utility costs only, shall not be permitted to use the SUA. However, if a household is not entitled to the SUA, it may claim the actual utility expenses which it does pay separately.

C. Where the household shares a residence and utility costs with other individuals, the SUA shall be divided equally among the parties which contribute to meeting the utility costs. In such cases, the household shall only be permitted to use its prorated share of the standard allowance, unless the household uses its actual costs.

D. Households can switch between the SUA and actual utility costs at each recertification and one additional time during each 12-month period following the initial certification.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:51551 et seq., 7 CFR 272 and 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:64 (February 1983), amended by the Department of Social Services, Office of Family Support, LR 20:860 (August 1994), LR 20:

§1975. Earned Income Tax Credits (EITC)

Advance payment of EITC will not be counted as income for food stamp purposes. However, the amount will be counted toward the household's resources just as EITC payments made as tax refunds are.

Exclude EITC as resources for 12 months from receipt if the recipient is participating in the Food Stamp Program when the EITC is received and continuously participates for the 12 months following receipt.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9 and P.L. 103-66.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:74 (February 1989), amended LR 15:393 (May 1989), amended by the Department of Social Services, Office of Family Support, LR 20:

§1980. Income Exclusions

A. Payments or allowances to provide energy assistance under any federal law, including the Department of Housing and Urban Development and the Farmers Home Administration, are excluded as income, and the expense is not deductible.

B. Earnings of an elementary or secondary student through age 21 who is a member of the household are excluded.

C. Vendor payments for transitional housing for the homeless are excluded.

AUTHORITY NOTE: Promulgated in accordance with P.L. 103-66 and 7 CFR 273.9(c)(11).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 20:

§1981. Utility Allowance for Indirect Energy Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953(B), 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:486 (August 1986), amended LR 12:768 (November 1986), repealed by the Department of Social Services, Office of Family Support, LR 20:

§1983. Income Deductions and Resource Limits

A. In determining eligibility and benefit levels, the household is allowed deductions for certain costs.

1. The earned income deduction is 20 percent of total countable gross earnings.

2. The maximum shelter deduction is $231 for households which do not include a member who is elderly or disabled.

3. The maximum dependent care deduction is $200 per month for each child under 2 years of age and $175 for each other dependent.

A child care expense that is paid for or reimbursed by the Job Opportunities and Basic Skills Training Program or the Transitional Child Care Program is not deductible except for that expense which exceeds the payment or reimbursement.

B. The resource limit for a household is $2,000, and the resource limit for a household which includes at least one elderly member is $3,000.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:11009 et seq. and 51:11086 et seq., P.L. 99-500, P.L. 103-66, 7 CFR 273.9 and 273.10 (d)(1)(i).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989), amended by the Department of Social Services, Office of Family Support, LR 19:303 (March 1993), LR 19:905 (July 1993), LR 20:780 (July 1994), LR 20:

§1989. Prorated Initial Allotment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:6990 et seq., 7 CFR 273.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:321 (April 1990), repealed LR 20:

§1991. Initial Month's Benefits

A. Initial month means either the first month for which an allotment is issued to a household, or the first month for which an allotment is issued to a household following any period of more than a month during which the household was not certified for participation in the Food Stamp Program.

B. A household's benefit level for the initial month of certification will be based on the day of the month it applies for benefits. Using a 30-day calendar or fiscal month, households shall receive benefits prorated from the day of application to the end of the month. A household applying on the thirty-first of a month will be treated as though they

applied on the thirtieth of the month. If the prorated allotment results in an amount of $1, $3, or $5, the allotment shall be rounded to $2, $4, or $6.

C. Households who have applied for initial month's benefits after the fifteenth of the month, completed the application, provided all required verification, and have been determined eligible to receive benefits for the initial month of application and the next subsequent month shall receive their prorated allotment for the initial month of application and their first full month's allotment at the same time. In determining initial month benefits, the result of the proration will be rounded down to the nearest lower dollar increment. If the calculation results in an allotment of less than $10, then no benefits will be issued.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.10, P.L. 103-66.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), amended LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 20:

§1997. Drug and Alcohol Treatment Centers

A. Residents of publicly operated community mental health centers which provide the same type of residential programs for alcoholic or drug rehabilitation as private, nonprofit institutions will be considered individual households and, if eligible, may participate in the Food Stamp Program.

B. Drug addicts or alcoholics and their children who are residents in an approved public or private, drug or alcohol treatment center program may participate in the Food Stamp Program.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:6511 et seq., 7 CFR 273.11, P.L. 103-66.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:366 (June 1986), amended by the Department of Social Services, Office of Family Support, LR 20:

Subchapter P. Recovery of Overissued Food Stamp Benefits

§2005. Collection Methods and Penalties

* * *

B. The basis for disqualification is expanded to include the intentional making of false or misleading statements, misrepresentations, or the concealment or withholding of facts, as well as the commission of any act that constitutes a violation of any state food stamp statute and the use of food stamps in certain illegal purchases. The Office of Family Support, hereinafter referred to as the "agency," will not increase the benefits to the household of a disqualified person because of the disqualification.

1. Mandatory disqualification periods of six months for the first offense, 12 months for the second, and permanently for the third offense will be imposed against any individual found to have committed an intentional program violation, regardless of whether the determination was arrived at administratively or through a court of law.

2. Recipients will be disqualified for one year for a first finding by a court that the recipient purchased illegal drugs with food stamps, and permanently for a second such finding. Permanent disqualification will also result for the first finding by a court that the recipient purchased firearms, ammunition or explosives with food stamps.

* * *

AUTHORITY NOTE: Promulgated in accordance with F.R. 48:6837 et seq., P.L. 97-35, 97-253, 101-624 §1746, 102-237 §911, 7 CFR 272, 273, 276 and 277, P.L. 103-66.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 18:1133 (October 1992), LR 20:391 (April 1994), LR 20:780 (July 1994), LR 20:898 (August 1994), LR 20:

Interested persons may submit written comments within 30 days to Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held at 9:30 a.m., November 28, 1994 in the Second Floor Auditorium, 755 Third Street, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Gloria Bryant-Banks
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Mickey Leland Childhood Hunger Relief Act Food Stamp Program Changes

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

The immediate estimated cost to state government is $2635 for publishing the rule and printing related manual material. Although the numerous policy changes within the rule will result in increased benefits to recipients, food stamp benefits are 100 percent federally financed. The changes may cause a slight increase in total participation in the program which could also increase administrative costs but no projections are available. The rule results in no savings, and it will have no impact on any local governmental units.

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

The proposed rule will have no effect on revenue collections of state or local governmental units.

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

There are no costs to any persons on nongovernmental groups. Food stamp recipients will receive economic benefits in the form of increased or new food stamp allotments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposal will have no impact on competition and employment.

Howard L. Prejean
Assistant Secretary
9410#049

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries
Office of Fisheries

Freshwater Mussel Harvest Regulations (LAC 76:VII.161)

The secretary of the Department of Wildlife and Fisheries does hereby give notice of intent to amend a rule to establish freshwater mussel harvest regulations.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 1. Freshwater Sports and Commercial Fishing
§161. Freshwater Mussel Harvest

A. Commercial Harvest

* * *

2. Fees

a. An annual permit fee of $100 for resident mussel fishermen and $1,000 for non-resident mussel fishermen will accompany the permit application. This fee will be applicable for one calendar year. If the permit application is disapproved, the fee will be refunded to the applicant.

* * *

4. Species for Commercial Harvest

* * *

c. The zebra mussel (*Dreissena polymorpha*), an introduced nuisance aquatic species, has the potential to severely clog industrial and public water intakes, deplete nutrients and consume huge amounts of dissolved oxygen in state waterbodies, and potentially decimate endemic freshwater mussel populations. Therefore, the Department of Wildlife and Fisheries strongly encourages the destruction of any zebra mussels encountered in order to prevent their spread.

* * *

6. Areas Open to Harvest

* * *

b. Because of the presence of threatened or endangered species of mussels, commercial mussel harvest is prohibited in the following areas:

* * *

iii. The main channel of Bayou Bartholomew in Morehouse Parish, from the Arkansas-Louisiana state line to its confluence with the Ouachita River.

* * *

7. Reporting

a. Commercial mussel buyers must compute and pay a severance tax of 5 percent of the revenues derived from the sale of whole freshwater mussels on forms furnished by the Department of Wildlife and Fisheries (R.S. 56:450(A) and (C) and 56:451 and 452). Both the buyers and sellers must retain such receipts for inspection by the Department of Wildlife and Fisheries for a period of not less than two years. Written notification of changes and reporting requirements sent by the Department of Wildlife and Fisheries to commercial buyers shall become part of the buyers permit and must be maintained by the buyer along with the permit.

b. Commercial harvesters must contact Department of Wildlife and Fisheries and provide information on harvesting location at least 24 hours prior to the first day of harvesting activities on that location. The harvester must also notify Department of Wildlife and Fisheries within 24 hours when harvesting at that location has been completed.

* * *

B. Recreational Harvest

1. General Harvest Restrictions

a. Freshwater mussels may be taken year-round between official sunrise and official sunset for recreational purposes with a basic recreational fishing license. The daily take is limited to 25 whole mussels, or 50 separate valves, with a possession limit not to exceed twice the daily limit, of one species or in aggregate. There will be no possession limit for the nonindigenous Asian clam (*Corbicula fluminea*). Any zebra mussels taken or encountered should be destroyed.

* * *

2. Areas Open to Harvest

* * *

b. Because of the presence of threatened or endangered species of mussels, recreational mussel harvest is prohibited in the following areas:

* * *

iii. The main channel of Bayou Bartholomew in Morehouse Parish from the Arkansas-Louisiana state line to its confluence with the Ouachita River.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:450(A) and (C) and 56:451-452.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 19:510 (April 1993), amended LR 21:

Interested persons may submit written comments on the proposed rule to Bennie Fontenot, Jr., Administrator, Inland Fish Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Tuesday, November 28, 1994.

Joe L. Herring
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Freshwater Mussel Harvest Regulations

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

The amended rule will have no implementation costs. Enforcement of the proposed rule and administration of permits will be carried out using existing staff.

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

Estimates of revenues generated by sales of license and permits have been previously generated with publication of the initial rule (LR 19:510, April 1993). Under statutory authority granted by the Louisiana legislature, the department will receive approximately an additional $55,000 in severance taxes and increased nonresident commercial permit fees in FY 94-95.

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

The amended rule will have no effect on economic benefits to affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The amended rule will have no effect upon competition and employment.

Fredrick J. Prejean, Sr.
Undersecretary
9410#028

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

State Wildlife and Paul J. Rainey Refuges
(LAC 76:III.323)

The Louisiana Wildlife and Fisheries Commission hereby expresses its intent to adopt a rule establishing visitor regulations for State Wildlife Refuge and Paul J. Rainey Refuge of the National Audubon Society.

Title 76
WILDLIFE AND FISHERIES
Part III. State Game and Fish Preserves and Sanctuaries
Chapter 3. Particular Game and Fish Preserves and Commissions
§323. State Wildlife and Paul J. Rainey Refuges

A. Visitor Regulations for State Wildlife Refuge

1. Use of the refuge will be allowed from official sunrise to official sunset. This includes access routes through the refuge.

2. Overnight camping is prohibited.

3. Hunting, pursuing, killing, molesting or intentionally disturbing any type of wildlife by the public is prohibited. This does not prohibit the Department of Wildlife and Fisheries from carrying out harvest programs for certain types of wildlife as specified in the Deed of Donation.

4. Commercial and recreational trawling on the refuge is prohibited. Recreational trotlines, jug lines, trammel nets, gill nets, hoop nets and fish and crab traps are prohibited. All commercial fishing and use of any commercial fishing gear on the refuge is prohibited. Twenty-five pounds of shrimp (heads on) per boat or vehicle per day is allowed during the inside open shrimp season as established by the Wildlife and Fisheries Commission. Ten pounds of shrimp (heads on) for bait purposes may be caught during the closed season. Shrimp may be harvested only by cast net on the refuge and only for sport fishing or home consumption use. Containers are required to receive cast net catches to prevent littering and for safety purposes.

5. Crawfish may be harvested from the open portion of the refuge and 100 pounds per boat or vehicle is allowed per day. Set nets may be used but must be attended and removed from the refuge daily. No commercial harvest is allowed.

6. Crabs may be harvested from the open portion of the refuge; and 12 dozen crabs are allowed per boat or vehicle per day. A maximum of 12 crab nets are allowed per boat or vehicle. No commercial harvest is allowed.

7. Oysters may be harvested by tonging (properly licensed) or by hand collection from the natural reefs. One gallon per boat or vehicle per day is allowed and oysters must be opened at the reef and the shells returned to the reef. Taking of oysters on the reef is dependent upon Department of Health and Hospitals' approval and may be closed at any time by the Department of Wildlife and Fisheries.

8. The burning of the marsh by the public is prohibited. Water control structures shall not be tampered with or altered by anyone other than employees of the Department of Wildlife and Fisheries.

9. Bringing firearms, bows and arrows, liquor and controlled dangerous substances (drugs) onto the refuge is prohibited. Personal companion animals (eg. dogs) are restricted to boats or vehicles unless prior approval is obtained from the refuge supervisor. Upon probable cause a violation has occurred, all boats and vehicles are subject to search by all authorized employees of the Department of Wildlife and Fisheries.

10. Speed boat racing, air boats, hover craft, jet skis, and water skiing are prohibited. All boat traffic shall honor no wake zones and shall keep wave wash to a minimum. Pulling boats over or around levees, dams or water control structures is prohibited. The Department of Wildlife and Fisheries may further restrict specified areas of the refuge from public access or use.

11. No litter is allowed. Visitors must remove their litter or place litter in appropriate litter disposal sites. Damage to or removal of trees, shrubs and wild plants without prior approval is prohibited.

12. Commercial fishing gear or trawls shall not be permitted in possession while participating in sport fishing on the refuge. Commercial fishing gear may be in possession for nonstop access directly across refuge or for safe harbor only.

13. Department officials and enforcement officers shall have the duty and the right to restrict access to the refuge, even for the purpose herein enumerated, whenever the circumstances exist that such access may impair the primary purpose of the refuge as a wildlife refuge and sanctuary.

14. Violation of any part of this subsection constitutes a class two violation.

B. Visitor Regulations for Paul J. Rainey Refuge of the National Audubon Society

1. All visitors must be accompanied by a representative of the National Audubon Society.

2. Trespassing, hunting, pursuing, killing, molesting, fishing or intentionally disturbing any type of wildlife by the public is prohibited. This does not prohibit the National Audubon Society from carrying out harvest programs for certain types of wildlife as specified in the Deed of Donation.

3. Possessing firearms, bows and arrows, liquor and controlled dangerous substances (drugs) on the refuge is prohibited.

4. Upon probable cause a violation has occurred, all boats and vehicles are subject to search by all authorized employees of the Department of Wildlife and Fisheries.

5. Department officials and enforcement officers shall have the duty and the right to restrict access to the refuge, even for the purpose herein enumerated, whenever the

circumstances exist that such access may impair the primary purpose of the refuge as a wildlife refuge and sanctuary.

6. Violation of any part of this subsection constitutes a class two violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 et seq. and R.S. 56:763.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 20:

Interested persons may submit written comments on the proposed rule to Johnnie Tarver, Administrator, Fur and Refuge Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Tuesday, November 28, 1994.

John F. "Jeff" Schneider
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: State Wildlife and Paul J. Rainey Refuges

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

No costs or savings to state or local governmental units will be noted above current expenditures.

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

Very little effect on the revenue collection of state or local governmental units will be recognized; small fines for trespass may be infrequently generated however.

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

No cost and/or economic benefits to affect persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There shall not be any effect on competition and employment by implementing this rule.

Fredrick Prejean
Undersecretary
9410#029

David W. Hood
Senior Fiscal Analyst

ADMINISTRATIVE CODE UPDATE

CUMULATIVE ADMINISTRATIVE CODE UPDATE
January, 1994 through September, 1994

LAC Title	Part.Section	Effect	Location LR 20 Month	Page
1	I.501	Amended	Jun	657
4	V.1525-1565	Repealed	May	512
	V.Chapter 41	Repromulgated	Apr	374
	VII.125	Amended	Jan	29
	VII.905,911	Amended	Jan	48
	VII.915	Adopted	Mar	294
	VII.1239	Amended	May	543
	VII.1243	Repromulgated	Jan	48
7	V.1735	Adopted	Jul	782
	XIII.Chapter 87	Amended	Jun	642
	XXI.Chapter 117	Amended	Apr	405
	XXI.11771	Amended	Aug	863
	XXIII.Chapter 131	Amended	Jun	641
	XXV.Chapter 141	Amended	Jun	644
	XXVII.14727	Repromulgated	Feb	154
	XXIX.Chapter 151	Amended	Jun	639
	XXIX.15111	Amended	Feb	153
	XXXI.Chapter 161	Amended	Apr	398
	XXXV.17502	Repromulgated	Jan	28
	XXXIX.20101	Amended	Apr	408
	XLIII.Chapter 311	Adopted	Apr	393
10	XV.301—321	Amended	Feb	154
	XV.303	Repromulgated	Mar	280
	XV.Chapter 9	Adopted	Apr	412
	XIX.321	Amended	Feb	199
13	I.723,725,727	Repealed	Feb	160
	I.Chapter 15	Amended	Aug	864
16	I.101	Adopted	Apr	438
22	I.Chapter 3	Adopted	Jan	58
	IX.Chapters 1-4	Amended	Jul	786
	XIII.Chapters 1-5	Adopted	May	537
25	I.Chapter 1	Amended	Apr	409
	III.103	Amended	Jul	783
	III.105	Amended	Jul	784
28	I.111	Amended	Jun	648
	I.111	Amended	Sep	998
	I.902	Repromulgated	Jun	647
	I.903	Amended	Feb	162
	I.903	Amended	Mar	282
	I.903	Amended	Mar	285
	I.903	Repromulgated	May	536

	I.906	Amended	Apr 416
	I.917	Repromulgated	Jan 28
	I.917	Amended	Aug 870
	I.920	Repromulgated	Jun 646
	I.939	Adopted	Aug 870
	I.1709	Amended	Jun 647
	V.Chapter 3	Amended	Aug 871
33	I.3905—3931	Amend/Repromul	Feb 181
	III.223	Amended	Apr 421
	III.2117	Amended	Mar 289
	III.2120	Adopted	May 537
	III.2201—2205	Adopted	Feb 162
	III.2203	Repromulgated	Mar 288
	III.Chapter 6	Adopted	Aug 873
	III.611	Adopted	Aug 881
	III.Chapter 27	Amended	Jun 649
	III.Chapter 31	Amended	Mar 289
	III.5139	Adopted	May 536
	III.Chapter 53	Adopted	Apr 430
	III.Chapter 59	Adopted	Apr 421
	V.10303,10305	Amended	Jan 58
	V.Chapter 301	Amended	Apr 439
	V.Chapters 1-49	Amended	Sep 1000
	VII.Chapters 151-163	Amended	Jun 654
	VII.721-725	Amended	Sep 1001
	VII.Chapter 105	Amended	Sep 1001
	IX.1123	Amended	Apr 431
	IX.Chapter 11	Amended	Aug 883
	XI.301	Amended	Mar 294
	XV.102	Amended	Jun 649
	XV.Chapter 3	Amended	Feb 178
	XV.Chapters 4,5,10	Amended	Jun 653
	XV.575	Amended	Sep 999
	XV.578, 579	Adopted	Sep 1000
34	III.201	Amended	Feb 185
	III.701	Amended	Jan 47
	V.103	Amended	May 542
35	I.1709	Adopted	Feb 160
	I.1503	Repealed	Jun 645
	I.1722	Repealed	Jun 645
	IX.9503	Amended	Jun 644
37	III.711,713	Amended	Apr 432
40	VII.103	Amended	Aug 897
42	I.1785,1789	Amended	Apr 448
	XIII.704	Adopted	Jun 672
	XIII.709	Amended	Jun 672
43	XIII.Chapters 1—29	Amended	Apr 442
	XV.Chapters 1—73	Amended	Apr 447
46	I.1105	Amended	May 534
	I.Chapters 1-15	Amended	Sep 995
	V.2801	Adopted	Apr 415
	V.3303	Amended	May 535
	V.3303	Repromulgated	Jun 645
	XXI.511	Adopted	Sep 997
	XXI.603	Amended	Apr 412
	XXIII.Chapter 1-9	Amended	Jun 656
	XXVII.310	Adopted	Apr 433
	XXXIII.301	Amended	Jun 657
	XXXIII.506	Adopted	Jun 662
	XXXIII.Chapter 15	Adopted	Jun 658
	XXXIII.Chapter 16	Adopted	Jun 661
	XXXVII.1107	Amended	Feb 191
	XLIII.703,704	Amended	Aug 864
	XLIV.Chapters 1-63	Adopted	Sep 1002
	XLV.Chapter 19	Amended	Sep 1002
	XLIX.301-305	Amended	Jul 790
	XLIX.503-511	Amended	Jul 789
	XLIX.791	Amended	Jul 789
	XLIX.905,907,1101	Amended	Jul 788
	XLVII.306	Repeal/Repromul	Jun 663
	XLVII.307	Adopted	Jun 665
	XLIX.1107	Amended	Sep 1002
	LVI.101	Adopted	Aug 868
	LX.Chapter 21	Amended	May 544
	LXI.105	Amended	Aug 901
	LXXXV.700	Amended	Jun 666
	LXXXV.704	Adopted	Jun 666
48	I.Chapter 53	Amended	Apr 450
	I.Chapter 137	Adopted	Sep 1010
	I.17101—17125	Adopted	Apr 434
	I.2301	Amended	Mar 307
	I.2315—2323	Adopted	Feb 193
	I.2371-2395	Adopted	Jun 669
	I.2400-2428	Adopted	Aug 895
	I.3903	Amended	Aug 895
	I.Chapter 49	Adopted	Aug 885
	XI.1309	Adopted	Jun 667
55	VII.317	Amended	Jun 671
	VII.701	Adopted	Jun 671
61	I.4307	Amended	Mar 316
	I.4910	Amended	Jun 673
	I.5301	Adopted	Feb 197
	V.Chapters 1—35	Amended	Feb 198
67	I.Chapter 1	Amended	Apr 459
	I.101,107	Amended	Jul 794
	I.101-103	Amended	Aug 899
	III.1503	Amended	Sep 1019
	III.2005	Amended	Aug 899
	III.2801,2802	Amended	Apr 449
	III.2902	Amended	Feb 199
	III.2916	Amended	Jul 793
	III.6501,6502	Amended	Apr 449
	V.1103	Amended	Feb 198
	V.401	Adopted	Aug 898
	V.3503	Amended	Aug 898
	VII.101	Amended	Mar 317
	VII.1501	Amended	Jun 673
70	I.Chapter 1	Adopted	Jul 795
	I.509	Adopted	Jul 795
	III.Chapter 13	Adopted	Mar 317
	III.1501,1503	Adopted	Mar 318
	III.1503	Amended	Sep 1019
73	I.309,311,313	Amended	Apr 463
	I.561,571	Amended	Apr 463
	I.901	Adopted	Mar 318

76	V.701	Amended	Mar 321
	VII.149	Amended	Jul 796
	VII.171	Adopted	Jul 797
	VII.201	Amended	Mar 323
	VII.203	Amended	Mar 323
	VII.335	Amended	Jul 797
	VII.903	Amended	Sep 1022

9410#002

COMMITTEE REPORTS

COMMITTEE REPORT

Senate Committee on Environmental Quality Oversight Subcommittee of the House Committee on Natural Resources

Control of Emissions from Motor Vehicles
(LAC 33:III.Chapter 19) (AQ78)

September 13, 1994
To the Governor of the State of Louisiana:

On September 9, 1994, pursuant to the Administrative Procedure Act, R.S. 49:950 et seq., the Senate Committee on Environmental Quality and the Oversight Subcommittee of the House Committee on Natural Resources met jointly for the purpose of determining acceptability of proposed rules of the Department of Environmental Quality (DEQ). Those rules provide for the imposition of an enhanced inspection and maintenance program for motor vehicles very much like the Environmental Protection Agency (EPA) program. The only area of the state in which such a program would be effective for the foreseeable future is the six parish Baton Rouge area since it is the only area of the state designated as "serious" due to nonattainment of the National Ambient Air Quality Standards for Ozone.

For the reasons stated below, each legislative oversight committee voted unanimously to find the proposed rules unacceptable at this time. The message of the committees is **not** that we are opposed to the implementation of all vehicle emission reduction programs. It is understood that additional steps must be taken to improve the Baton Rouge ozone problem. However, it is the position of the committees that to lock the Baton Rouge area into this program at this time is premature at best.

The legislative oversight committees considered the following information and testimony in reaching their decisions.

On November 22, 1993, these same committees jointly met to consider the EPA/DEQ motor vehicle inspection and maintenance program proposed for the Baton Rouge area. During the course of the meeting, testimony was received from various sources including that of the EPA officials who are responsible for the EPA Model Program. It became quite clear during the meeting, that the EPA has chosen to give little or no credit for the great progress the Baton Rouge area has made since 1990; progress which is the result of the efforts of the DEQ and area industries (Please see information following this report).

Based on the air quality data since 1990, the Baton Rouge Ozone Nonattainment Area (N/A) should no longer be classified as "serious" or even "moderate." Rather, the N/A should be classified as "marginal" and would not be required to implement either an Enhanced or Basic Inspection and Maintenance Program. However, under the Clean Air Act (CAA) the Baton Rouge N/A is "locked-into" the air quality data of 1988—1990. That is the data which caused the N/A designation to be "serious."

At the end of the November 1993 meeting, the DEQ was asked to delay locking Louisiana into the EPA program at least until matters in California were resolved. That program primarily uses the "IM240" technology and procedures despite many unanswered questions about it. DEQ has proceeded more slowly since then.

While there has been a temporary compromise in California since March, 1994, various pilot projects are on-going to evaluate EPA assumptions and alternative costs-effective technology. California has until November 15, 1994 to complete these and other studies, and then EPA has until February 15, 1995 to complete its evaluation of the results. Consequently, adopting the EPA program including the IM240 as primary test technology is still as premature.

As was stated in the September 9, 1994 meeting, the action of that meeting is not a rejection of DEQ. We recognized DEQ for its February, 1994 efforts to petition EPA for "reclassification" of the Baton Rouge area. Clearly, some of the program elements included in that petition must be a part of the final program implemented in Baton Rouge.

What was clear to the committee members is that EPA has exceeded its delegation of authority effectively preempting the flexibility provided to states under the CAA. EPA has rejected nearly all state efforts to satisfy the CAA vehicle inspection requirements which are not the same as in the EPA Program.

The joint committee members at the meeting believe that the EPA-mandated program, as implemented by these rules, exceeds the delegation of authority to DEQ by Act 570 of the 1993 Regular Session. Our enabling law requires that "(i)n determining the specific test technology to be implemented, the secretary shall preserve the state's options provided by federal law to very from the specific program features required by EPA rules and to consider alternate, evolving, cost-effective technologies, presenting minimal public inconvenience, which are designed to bring Louisiana into compliance with federal ambient air quality standards and meet..." the CAA required program elements.

At the present, there are already other alternative acceptable technologies available and there is little doubt that the various pilot projects in California, Georgia, Delaware, and elsewhere around the country will add to the choices which the CAA authorizes the states to make.

At the oversight meeting, the results of ongoing discussions with DEQ at the direction of Senator Larry Bankston were

presented and supported by the committees. As a result, DEQ has been asked to design a "common sense" inspection and maintenance (I/M) program for light duty vehicles designed to assist in achieving compliance with the National Ambient Air Quality Standard for the pollutant ozone. Achieving compliance with this standard is the goal of the Federal Clean Air Act amendments as it relates to Baton Rouge.

The Clean Air Act requires that the Baton Rouge area demonstrate that the ozone standard can be achieved by the end of this decade. This should be the over-riding concern and mission of DEQ and not the implementation of the EPA prescriptive I/M program.

EPA should provide appropriate emission reduction credit to Louisiana for establishment of this program. The state should be allowed to make up for any emission credit loss from not implementing the costly EPA I/M program through achieving additional reductions from stationary sources and other categories of sources not previously regulated.

Based on these facts, the committees strongly recommended that the department work to establish a decentralized test and repair program designed to provide maximum motorist convenience while reducing the level of vehicle pollution. The location of test facilities in neighborhood settings will allow the motorist the convenience of having testing and repairs at the same location.

Testing equipment for this program should be of basic design to allow local dealers and service stations to purchase the equipment and conduct the testing. Vehicles which fail the test could be repaired and retested on the same day avoiding the inconvenience of having to make multiple trips to different locations. This would avoid the irritating "ping-pong" effect which would result from the EPA model test-only program. The emission testing program should also be designed to allow the motorist to have the annual safety inspection performed at the same time.

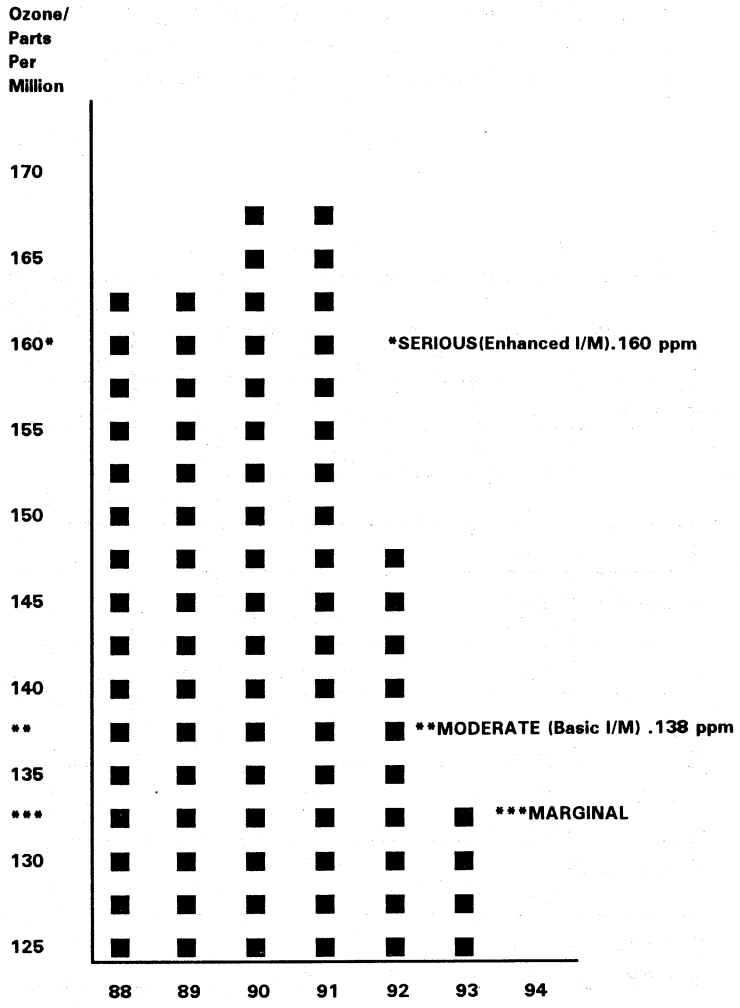
Considering the foregoing, we request that you allow the action of these committees to stand.

EBR N/A HIGHEST EXCEEDANCE PER MONITOR

		80	81	82	83	84	85	86	87	88	89	90	91	92	93	94
EBRP	Baker		182	164	133	164		153	152	137	171	141	144		142	
	Capitol		146	163	130	146	157	139	165	197	138	202	152	135	139	144
	LSU	218	179	185	169	161	183	136	141	167	168	187	134			159
	Pride												135			
Iberville	Bayou Sorrel															
	Carville	177	160	201	188	129	129	133	134	148	149	157		145		134
	Grosse Tete															126
WBRP	Port Allen				130	138		129	176	163	148	158	132	149	128	
Ascension	Dutch-town														129	136
Pointe Coupee	New Roads										141	152	127	136		
Livingston	French Settle-ment														126	
9/7/94	High Exced.	218	182	201	188	164	183	153	176	197	171	202	152	149	142	159
	Average Exced.	197	167	178	150	148	156	138	154	162	152	166	137	141	133	139

BATON ROUGE NONATTAINMENT MONITOR EXCEEDANCES FOR 1994 (THROUGH SEPTEMBER 7, 1994)			
August 17	Dutchtown	2-3 p.m.	.128 ppm
		3-4 p.m.	.133 ppm
		4-5 p.m.	.136 ppm
August 24	LSU	2-3 p.m.	.159 ppm
		3-4 p.m.	.135 ppm
	Capitol	2-3 p.m.	.144 ppm
August 25	Gross Tete		.126 ppm
September 6	Capitol	3-4 p.m.	.137 ppm
		4-5 p.m.	.140 ppm
		5-6 p.m.	.138 ppm
	LSU	4-5 p.m.	.133 ppm
		5-6 p.m.	.136 ppm
	Carville	3-4 p.m.	.134 ppm
		4-5 p.m.	.131 ppm
Source: LDEQ; data not final			

BATON ROUGE NONATTAINMENT AREA DESIGN VALUES



Respectfully submitted,

Sam H. Theriot
Chairman
House Committee on
Natural Resources

M. A. "Mike" Cross
Chairman
Senate Committee on
Environmental Quality

9410#005

COMMITTEE REPORT

Senate Committee on Health and Welfare and House Committee on Health and Welfare

Clinical Laboratory Personnel; Licensure and Certification (LAC 46:XLV.3507)

October 10, 1994

To the Governor of the State of Louisiana:

On October 6, 1994, pursuant to the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., the Senate Committee on Health and Welfare and the House Committee on Health and Welfare met jointly for the purpose of determining acceptability of proposed rules of the Louisiana State Board of Medical Examiners. Those rules provide for implementing the licensure and certification requirements for clinical laboratory personnel, as provided by Act 396 of the 1993 Regular Session of the Louisiana Legislature.

While a quorum of the Senate Committee was not present, members of each committee in attendance determined unanimously to find all proposed rules acceptable at this time with the exception of part of the proposed rule in §3507 relative to exceptions to licensure and certification requirements which states that:

"B. Upon petition or request made to the board, when unusual or extraordinary circumstances are demonstrated, the board, on the recommendation of the committee, may grant an exception from the licensure or certification requirements otherwise applicable under this Chapter to a particular individual or group."

The joint committee members at the meeting agreed that this part of the rule extends the authority of the board beyond that which Act 396 provides and could be construed to give the board the authority to create exemptions that are not recognized in the law.

Other information and testimony received during the meeting indicated that it was not the intent of the Clinical Laboratory Personnel Committee or the board to grant unto itself the authority to create exemptions that are not recognized in the law and that they would not object to the committees' determination.

For this reason, we request that you allow the action of these committees to stand.

Gerry E. Hinton, Chairman
Senate Committee on Health and Welfare

Jerry Thomas, Chairman
House Committee on Health and Welfare

9410#079

POTPOURRI

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

VOC Reduction

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Office of Air Quality and Radiation Protection will submit the Post-1996 Rate of Progress Plan (RFP) to demonstrate the state's ability to reduce Volatile Organic Compound (VOC) emissions by nine percent in 1999. The RFP is mandated under the requirements of the 1990 Clean Air Act amendments.

Any area in the Nation designated as serious or above ozone nonattainment must submit a Post-1996 Rate of Progress Plan.

A public hearing will be held at 1:30 p.m. on Tuesday, November 29, 1994, in Room 326, Maynard Ketchum Building, 7290 Bluebonnet, Baton Rouge, LA. Should individuals with a disability need an accommodation in order to participate, please contact Annette Sharp at the telephone number or address listed below.

Interested persons are invited to attend and submit oral comments on the proposal. All interested persons are invited to submit written comments concerning the SIP. Such comments should be submitted no later than 4:30 p.m., December 6, 1994 to Annette Sharp, Air Quality Division, telephone (504)765-0219. Written comments should be mailed to the following address: Annette Sharp, Air Quality Division, Box 82135, Baton Rouge, LA, 70884-2135. A copy of the RFP may be viewed at the Air Quality Division from 8 a.m. to 4:30 p.m., Monday through Friday, 7290 Bluebonnet, Second Floor, Baton Rouge, LA, or the Capital Regional Office, 11720 Airline Highway, Baton Rouge, LA.

Gus Von Bodungen, P.E.
Assistant Secretary

9410#058

POTPOURRI

Department of Environmental Quality
Office of Legal Affairs and Enforcement
Enforcement and Regulatory Compliance Division

Semiannual Regulatory Agenda

The Department of Environmental Quality wishes to announce availability of the fall 1994 edition of the Semiannual Regulatory Agenda prepared by the Enforcement and Regulatory Compliance Division. The current agenda contains information on rules which have been proposed but have not been published as final and rules which are scheduled to be proposed in 1994 and 1995. Check or money order is required in advance for each copy of the agenda. Interested persons may obtain a copy by contacting Cora James, Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, Louisiana 70884-2282 or by calling (504) 765-0399.

James H. Brent, Ph.D.
Administrator

9410#057

POTPOURRI

Department of Health and Hospitals
Board of Embalmers and Funeral Directors

Embalmer/Funeral Director Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, December 3, 1994 at Delgado Community College, 615 City Park Ave., New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Executive Director

9410#076

POTPOURRI

Department of Health and Hospitals
Office of Public Health

Gulf Coast Vacuum Public Health Assessment

The Louisiana Office of Public Health, Section of Environmental Epidemiology is releasing the Gulf Coast Vacuum Public Health Assessment for public comment. The Public Health Assessment identifies and evaluates the environmental contaminants at the Gulf Coast Vacuum Superfund site and the public health implications related to exposure from these contaminants. The public comment period for Gulf Coast Vacuum located in Abbeville, LA is from November 1, 1994 to December 30, 1994. The document will be available on November 1, 1994 at the following repositories:

State Repositories, Contact Grace Moore at (504) 342-4929; Vermilion Parish Library, 200 North, Abbeville, LA 70510, (318) 893-2655; USEPA, 1445 Ross Avenue, 12th Floor, Dallas, Texas 75202-2733, (214) 655-6444; Vermilion Parish Health Unit, 401 South St. Charles Street, Abbeville, LA 70510, (318) 893-1443; LA Dept. of Environmental Quality, 7290 Bluebonnet, 4th Floor, Baton Rouge, LA 70809, (504) 765-0487; and the LA Office of Public Health, 234 Loyola Avenue, Suite 620, New Orleans, LA 70112, (504)568-8537.

There will be a public meeting on Wednesday, November 30, 1994 from 5 p.m. to 7 p.m. at the Vermilion Parish Court House, 2nd Floor, Courtroom 1, Abbeville. At the public meeting LOPH/SEE will explain the results of the Public Health Assessment, answer questions, and accept comments from the public.

Written comments will be included in the appendix to the final Public Health Assessment. Comments should be received prior to the ending date of December 30, 1994. Direct comments to: Dr. Lina Balluz, Public Health Assessment Supervisor, LA Office of Public Health, Section of Environmental Epidemiology, 234 Loyola Ave., Suite 620, New Orleans, LA 70112, (504) 568-8537.

The comments received during the public comment period will be addressed in an appendix to the final Public Health Assessment. Personal health identifiers will not be included in the final document.

Jack McClanahan
Secretary

9410#077

POTPOURRI

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

ICF/MR Rates

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing announces the Intermediate Care Facility/Handicapped adjusted per diem rates according to facility size for state fiscal year 1995 under the Medicaid Program.

Level of Care	1-8 Beds	9-32 Beds	33 Beds
2	$117.26	$ 87.32	$ 73.70
3	$125.24	$ 94.12	$ 79.32
4	$128.36	$101.51	$ 85.42
5	$129.14	$109.54	$ 92.05
6	$133.52	$118.27	$111.71
7	$153.86	$149.21	$119.92

Rose V. Forrest
Secretary

POTPOURRI

Health Insurance Association

Request for Proposals

The Louisiana Health Insurance Association (Louisiana High Risk Health Pool, Inc.) will issue Requests for Proposals for Administrative Services after 1 p.m. (Central) on Friday, October 28. Proposers must be licensed insurance companies or third party administrators in the state of Louisiana. Managed care services including large case management, concurrent review, precertification, etc., will also be evaluated. Proper insurance coverage, bonding, references, computer specifications, service specifications and contractual requirements are provided in the RFP. Phone Jon Bonnavel at (504) 926-6245 or write LHIA, Drawer 83880, Baton Rouge, LA 70884-3880. Proposals are due November 18, 1994 by 1 p.m. (Central).

Leah Barron
Executive Director

9410#030

POTPOURRI

Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well Number	Serial Number
Burle Corporation	Monroe	A J Barnett Sr	001	099547
Gulf Land and Investments Co., Inc.	North Cankton	G Pothier	001	030441
Hyland Oil & Gas	Bayou Nezpique	Nazie K Francois	001	210742
JAE Exploration & Dev.	Big Creek	JAE-L F Warren	001	182121
JAE Exploration & Dev.	Monroe	Gates	002	145751
JAE Exploration & Dev.	Sarepta	Slack	001	184561
Mallard Drilling Corp.	Caddo-Pine Island	Branch	001	164072
Mallard Drilling Corp.	Caddo-Pine Island	Branch	002	164073
Mallard Drilling Corp.	Wildcat-No La Shreveport District	Olin Unit	F-1	117841
A W Mc Naughton	Monroe	McNaughton	001	092214
ODY Oil Corp.	Cossinade	12360 RA SU;Bourgeois	001	183079
ODY Oil Corp.	Lockport	F RA SUA;Palvest Inc	001	166652
ODY Oil Corp.	Lockport	Palvest SWD	002	211106
ODY Oil Corp.	West White Lake	VUA;SL 11713	001	198181
Red River Energy Corporation	Lake End	John Mondello	004	067308

Red River Energy Corporation	Lake End	John Mondello	002	068399
Red River Energy Corporation	Lake End	John Mondello	001	071533
Red River Energy Corporation	Lake End	John Mondello	008	204327
Red River Energy Corporation	Lake End	R C LeGrande	001	175248
Red River Energy Corporation	Lake End	John Mondello	005	067661
Red River Energy Corporation	Lake End	John Mondello	003	068428
Red River Energy Corporation	Lake End	John Mondello SWD	006	071871
Red River Energy Corporation	Lake End	John Mondello	007	205725
Red River Energy Corporation	Lake End	R C LeGrande	002	175249
Red River Energy Corporation	Lake End	R C LeGrande	003	175250
Son-Dad Oil & Gas	South Prichard	Lacip SWD	C-2	095801
Bobby Underwood	Richland	Baker	001	166123
J. V. Wynn	Caddo-Pine Island	Minnie Wynn SWD	010	200311

Ernest A. Burguieres, III
Assistant Secretary

9410#075

POTPOURRI

Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund

Claims (August 1994)

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 48 claims in the amount of $143,104.32 were received in the month of August, 1994. One-hundred-fifty-two claims were paid and two claims were denied.

Loran coordinates of reported underwater obstructions are:

27982	46834	Terrebonne
28637	46870	Plaquemines
27820	46861	Terrebonne
29059	46947	St. Bernard
26636	46979	Cameron
28021	46832	Terrebonne
28936	46773	Plaquemines
27860	46916	Terrebonne
27918	46861	Terrebonne
27480	46921	Iberia
27497	46920	Iberia
26784	47015	Cameron
29023	46871	Plaquemines
28076	46837	Terrebonne
27667	46915	St. Mary
29129	46834	Plaquemines

A list of claimants, and amounts paid, may be obtained from Martha A. Swan, Administrator, Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA, 70804 or by telephone (504) 342-0122.

Jack McClanahan
Secretary

9410#078

POTPOURRI

Department of Transportation and Development
Sabine River Compact Administration

Fall Meeting Notice

The fall meeting of the Sabine River Compact Administration will be held at the Hilton Palacio Del Rio, San Antonio, Texas, on Thursday, October 27, 1994, at 9:30 a.m.

The purpose of the meeting will be to conduct business as programmed in Article IV of the bylaws of the Sabine River Compact Administration.

The spring meeting will be held at a site in Louisiana to be designated at the above described meeting.

The contact person concerning this meeting is: Mary H. Gibson, Secretary, Sabine River Compact Administration, 15091 Texas Highway, Many, LA 71449. Telephone: (318) 256-4112.

Mary H. Gibson
Secretary

9410#056

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CR—Committee Report ***EO—Executive Order***
ER—Emergency Rule ***L—Legislation***
N—Notice of Intent ***P—Potpourri***
PPM—Policy and Procedure Memorandum ***R—Rule***

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EXECUTIVE ORDERS

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Suzanne McAndrew Editor

PS Form **3526**, January 19[illegible] *(See instructions on reverse)*