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Executive Orders

EXECUTIVE ORDER MJF 96-9

Governor's DWI/Vehicular Homicide Task Force

WHEREAS: currently, Louisiana ranks twenty-first in the United States in population, but ranks fifth in the nation in alcohol-related fatalities and thirteenth in the nation in fatal crashes; and

WHEREAS: nearly 55 percent of Louisiana's traffic fatalities are alcohol-related, as compared to the national average of 43 percent; and

WHEREAS: Louisiana automobile owners pay high premiums for public liability insurance. Our state ranks tenth in the nation in costs for insurance, with an average premium of \$862.62; and

WHEREAS: there is a possible correlation between Louisiana's unusually high percentage of alcohol-related traffic fatalities and the unusually high insurance premiums paid by Louisiana motorists;

NOW THEREFORE I, M. J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the State of Louisiana, do hereby establish the Governor's DWI/Vehicular Homicide Task Force and do hereby order and direct as follows:

SECTION 1: The Governor's DWI/Vehicular Homicide Task Force is established and created within the Executive Department, Office of the Governor.

SECTION 2: The Governor's DWI/Vehicular Homicide Task Force shall be composed of one representative from each of the following agencies:

- A. The Governor's Office
- B. Louisiana State Police
- C. The Office of Motor Vehicles
- D. The State Police Crime Lab
- E. The Louisiana District Attorneys' Association
- F. The Louisiana Sheriff's Association
- G. The Municipal Police Officers Association of Louisiana
- H. The Louisiana House of Representatives
- I. The Louisiana Senate
- J. Mothers Against Drunk Driving
- K. The Louisiana Highway Safety Commission
- L. The Office of Alcohol and Drug Abuse
- M. One member at large, to be appointed by the Governor.

SECTION 3: The duties and functions of the Task Force shall include, but shall not be limited to, the following:

A. Address problem areas which may include, but not limited to, the following:

1. the unusually high incidence of drunk and drugged driving in the state;
2. the difficulty in proving identification of multiple DWI offenders for the purposes of enhanced penalties;

3. refusals to submit to breath and/or field sobriety tests;

4. problems with obtaining evidence from drivers who cause fatal or serious injury crashes; and

5. the arrest and prosecution of drug-impaired drivers.

B. The Governor's DWI Task Force shall present a legislative package to the Governor prior to the 1997 Regular Legislative Session.

C. The Governor's DWI Task Force shall act in an advisory capacity to the Governor, the Highway Safety Commission, the Alcoholic Beverage Control Commission and any other agency involved directly or peripherally with DWI issues.

SECTION 4: The members of the Governor's DWI/Vehicular Homicide Task Force shall receive no per diem or other compensation for their services and shall receive no reimbursement for expenses incurred in the performance of his or her duties.

SECTION 5: In implementing the provisions of this Executive Order, the Governor's DWI/Vehicular Homicide Task Force shall solicit input and recommendations from all agencies involved in DWI enforcement and countermeasures, particularly law enforcement officers at the state, parish and local levels.

SECTION 6: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Governor's DWI/Vehicular Homicide Task Force in implementing the provisions of this Executive Order.

SECTION 7: 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 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 15th of April, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9605#005

EXECUTIVE ORDER MJF 96-10

Oklahoma City Bombing Anniversary

WHEREAS: on April 19, 1995, a massive bomb blast destroyed the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma; and

WHEREAS: the explosion left 169 persons dead, hundreds injured and thousands mourning the loss of friends and family; and

WHEREAS: a massive rescue effort ensued, including hundreds of search and rescue workers from around the country, aided by local firefighters and police staff, structural engineers, and specially trained dogs, combing the site for weeks, day and night, searching for survivors and bodies; and

WHEREAS: Louisiana citizens joined millions of other Americans who followed the efforts of rescue workers with great concern as reported in the media and who supported those efforts with their prayers; and

WHEREAS: several Louisiana residents with expertise in rescue operations were directly involved in the search and rescue efforts; and

WHEREAS: Friday, April 19, 1996, will be the one-year anniversary of the "Oklahoma City Bombing;"

NOW THEREFORE I, M.J. "Mike" Foster, Jr., Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the State of Louisiana, and in order to show the respect of the people of the State of Louisiana for the many innocent children and adults injured and killed by the explosion, and to observe the one-year anniversary of the "Oklahoma City Bombing" do hereby order the flag of the United States be flown at half-mast on Friday, April 19, 1996, over the State Capitol and the public departments and institutions of the State of Louisiana.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 18th day of April, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9605#006

EXECUTIVE ORDER MJF 96-11

Housing Finance Agency Bond Allocation

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order Number EWE 92-47 establishing (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1996 (the "1996 Ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1996 Ceiling and (iii) a system of central record keeping for such allocations; and

WHEREAS: the Louisiana Housing Finance Agency (the "agency") has requested an allocation from the 1996 Ceiling to be used in connection with a program (the "program") of

financing mortgage loans for first time homebuyers throughout the state of Louisiana (the "state") in accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended (the "code"); and

WHEREAS: the governor has determined that the program serves a crucial need and provides a benefit to the state of Louisiana; and

WHEREAS: it is the intent of the Governor of the State of Louisiana that this Executive Order, to the extent inconsistent with the provisions of Executive Order Number EWE 92-47, supersedes and prevails over such provisions with respect to the allocation made herein;

NOW THEREFORE BE IT ORDERED BY M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, as follows:

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1996 Ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$25,000,000	Louisiana Housing Finance Agency	Single Family Mortgage Revenue Bonds

SECTION 2: The allocation granted hereunder is to be used only for the bond issue described in Section 1 and for the general purpose set in the "Application for Allocation of a Portion of the State of Louisiana IDB Ceiling" submitted in connection with the bonds described in Section 1.

SECTION 3: The allocation granted hereby shall be valid and in full force and effective through June 21, 1996, provided that such bonds are delivered to the initial purchasers thereof on or before June 21, 1996.

SECTION 4: The undersigned certifies, under penalty of perjury, that the allocation granted hereby was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

SECTION 5: That this Executive Order, to the extent conflicting with the provisions of Executive Order Number EWE 92-47, supersedes and prevails over the provisions of such Executive Order.

SECTION 6: All references herein to the singular shall include the plural and all plural references shall include the singular.

SECTION 7: This Executive Order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, Louisiana, on this 24th day of April, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9605#007

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Forestry
Forestry Commission
and
Department of Revenue and Taxation
Tax Commission

Timber Stumpage Values (LAC 7:XXXIX.20101)

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 47:633, the Forestry Commission and the Tax Commission find that this emergency rule setting forth the determination by the two commissions of the current average stumpage market value of trees, timber, and pulpwood for the purpose of predicating severance tax for the 1996 tax year is required so that timber severance tax computation and collection can continue uninterrupted until adoption of a final rule through the normal rule promulgation process can be completed. By law, these values are set annually in a meeting of the Forestry Commission and the Tax Commission on the second Monday in December. An imminent peril to public health, safety, and welfare would exist if timber severance tax revenues are not available for state and parish governmental entities in that the monies generated from the severance tax go to state and parish governmental entities for such uses as fire protection, police and road maintenance and are necessary for maintaining essential governmental services.

The effective date of this emergency rule is April 28, 1996, and it shall be in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 201. Timber Stumpage

§20101. Stumpage Values

The Louisiana Forestry Commission, and the Louisiana Tax Commission, as required by R.S. 47:633, determined the following timber stumpage values based on current average stumpage market values to be used for severance tax computations for 1996:

1. Pine trees and timber	\$361.36/MBF	\$45.17/Ton
2. Hardwood trees and timber	\$195.51/MBF	\$20.58/Ton
3. Pine Chip and Saw	\$82.10/Cord	\$30.41/Ton
4. Pine pulpwood	\$23.84/Cord	\$ 8.83/Ton
5. Hardwood pulpwood	\$12.63/Cord	\$ 4.43/Ton

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Forestry Commission, LR 4:9 (January 1978), amended LR 5:7 (January 1979), LR 6:728 (December 1980), LR 7:627 (December 1981), LR 8:651 (December 1982), LR 9:848 (December 1983), LR 10:1038 (December 1984),

LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Forestry Commission, LR 12:819 (December 1986), LR 13:432 (August 1987), LR 14:9 (January 1988), LR 15:5 (January 1989), LR 16:16 (January 1990), LR 17:476 (May 1991), LR 18:6 (January 1992), LR 19:611 (May 1993), LR 20:408 (April 1994), LR 21:930 (September 1995), repromulgated LR 21:1069 (October 1995), amended LR 22:

Billy Weaver, Chairman
Louisiana Forestry Commission

Malcolm Price, Chairman
Louisiana Tax Commission

9605#002

DECLARATION OF EMERGENCY

Department of Economic Development
Racing Commission

First Aid Services (LAC 35:III.5711)

The State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule effective May 1, 1996, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever occurs first.

The commission finds it necessary to amend this rule to provide for appropriate emergency services, medical personnel and a first aid room on track grounds.

Title 35

HORSE RACING

Part III. Personnel, Registration and Licensing

Chapter 57. Association's Duties and Obligations

§5711. First Aid Services

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

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

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

Paul D. Burgess
Executive Director

9605#020

DECLARATION OF EMERGENCY

Department of Economic Development Racing Commission

Superfecta (LAC 35:XIII.11701)

The Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule effective April 26, 1996 and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever occurs first.

The Racing Commission finds it necessary to adopt this rule to provide for the Superfecta wagering format for use when Louisiana Downs opens.

Title 35 HORSE RACING Part XIII. Wagering

Chapter 117. Superfecta

§11701. Superfecta

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 22:

Paul D. Burgess
Executive Director

9605#013

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1868—Personnel Manual (LAC 28:I.922)

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and readopted as an emergency rule, Revised Bulletin 1868, BESE Personnel Manual. Revisions to the manual were developed as a result of federal and state mandates, board action, or reworded for clarification as a result of using the manual. Bulletin 1868 is being readopted as an emergency rule, effective May 27, 1996, in order to continue the policies until finalized as a rule.

Copies of this bulletin have been provided to all entities under the jurisdiction of the Board of Elementary and Secondary Education and listed below:

1. each technical institute and regional management center;
2. BESE's special schools—Louisiana School for the Deaf, Louisiana School for the Visually Impaired, Louisiana Special Education Center;
3. each site operated by Special School District Number 1;
4. LA Association of Educators and LA Federation of Teachers.

Bulletin 1868, BESE Personnel Manual may be seen in its entirety in the Office of the State Register located on the fifth floor of the Capitol Annex; in the Office of the State Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge or in the Office of Vocational Education; or in the office of Special School District Number 1 located in the State Department of Education.

Bulletin 1868 is referenced in LAC 28:I.922 and amended as stated below:

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans

§922. Personnel Policies

A. Bulletin 1868

1. Revised Bulletin 1868, Personnel Manual of the State Board of Elementary and Secondary Education is adopted by the board. Policies in this bulletin apply to personnel under the jurisdiction of the state board in the Board Special Schools; in the entities comprising Special School District Number 1; and in entities in the vocational-technical system, exclusive of the assistant superintendent for Vocational Education and related state department staff.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:7(10), R.S. 17:81.4, R.S. 17:1941-1956; R.S. 17:1993.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 16:297 (April 1990), amended LR 16:957 (November 1990), LR 22:

(It should be noted that the clause "exclusive of the central office staff" which appeared after Special School District Number 1 has been eliminated from the bulletin. The salary

schedule for technical institutes has been deleted from the bulletin.)

Carole Wallin
Executive Director

9605#041

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of the Secretary

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

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Environmental Quality (department) to use emergency procedures to establish rules, and R.S. 30:2011 and R.S. 30:2193, which allow the department to provide for variances and exemptions from hazardous waste land disposal restrictions by rule, the secretary of the department hereby finds that imminent peril to the public welfare exists and accordingly adopts the following emergency rule effective April 23, 1996, for 120 days, or until promulgation of the final rule, whichever occurs first.

This Declaration of Emergency is necessary because the ability of certain underground injection well operators to continue injection of wastewater, during the time period necessary for the department to process their state petitions for exemption under LAC 33:V.2242 (now LAC 33:V.2271), has been put into question by the court's decisions in *In the Matter of Rubicon, Inc.*, Number 95-CA-0108 (1st Cir. 2/14/96), rehearing denied per curiam (3/29/96), and in *In The Matter of Cytec, Inc.*, Number 94-CA-1693 (1st Cir. 2/23/96). These decisions vacated and remanded the department's decisions to grant land disposal exemptions on strictly procedural grounds, not on the merits of the department's actions. There are four other exemption decisions granted by the department pending at the First Circuit.

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

This action is necessary because of the inability of the department to complete review, draft written reasons and reissue its decision as directed by the court in each case by the time the respective court of appeal's decisions become final. Affected companies are allowed to continue operation of their injection wells until final action on remand is taken by the

department and any subsequent appeal process has been completed. This will preserve the status quo pending this action by the department and is consistent with the original intent of the emergency variance provisions of the Consent Judgment.

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

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

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

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality— Hazardous Waste

Chapter 22. Prohibitions on Land Disposal

§2271. Exemptions to Allow Land Disposal of a Prohibited Waste by Deep Well Injections

* * *

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

W. Emergency Variance

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

exemption.

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

* * *

[See Prior Text in X-Z]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Department of Environmental Quality, Office of the Secretary LR 22:

J. Dale Givens
Secretary

9605#012

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Public Health

Sanitary Code—Molluscan Shell Stock (Chapter IX)

In accordance with the Administrative Procedure Act, R.S. 49:950 et. seq., the secretary of the Department of Health and Hospitals has adopted the following emergency rule governing the harvesting and refrigeration of molluscan shellfish.

This emergency adoption is necessary because there is imminent peril to the public health and safety. The rule is devised to reduce the risk of *Vibrio vulnificus* infection from eating raw oysters by requiring rapid cooling of shellstock after harvest. Adoption of this rule is necessary for the Commercial Seafood Sanitation Program to be in compliance with the minimum requirements of the National Shellfish Sanitation Program, which is administered by the U.S. Food and Drug Administration.

The effective date of this rule is May 1, 1996 and shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process.

Emergency Rule

Chapter IX. Seafood

* * *

9:052 Refrigeration of Shell-stock Oysters, Clams and Mussels

Shell-stock shall be placed under mechanical refrigeration at an air temperature (measured 12 inches from the blower) not to exceed 45° F within 2 hours after docking of a harvest vessel, and shall be maintained at or below that temperature throughout all levels of commerce. Shell-stock harvested for raw consumption and/or for shucking by a certified dealer during the months November through March shall be subject to the following time to refrigeration requirements:

A. NOVEMBER—Shell-stock shall be refrigerated within 24 hours from the time harvesting begins.

B. DECEMBER through MARCH—Shell-stock shall be refrigerated within 36 hours from the time harvesting begins.

9:052-1 Refrigeration Requirements for Shell-stock Harvested for Raw Consumption During the Months April Through October

Time to refrigeration requirements for shell-stock harvested for raw consumption during the months April through October shall be based on the average monthly growing water temperatures as calculated and announced by the Office of Public Health Molluscan Shellfish Program according to the following schedule:

A. Water Temperature: 65° F to 74° F—Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45° F within 14 hours from the time harvesting begins.

B. Water Temperature: >74° F to 84° F—Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45° F within 12 hours from the time harvesting begins.

C. Water Temperature: > 84° F—Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45° F within 6 hours from the time harvesting begins.

A Harvester-Dealer Time/Temperature Log Sheet (see Table I) shall be completed by both the harvester and first certified dealer to document compliance with time to refrigeration requirements during the April through October time period. Log sheets shall be maintained for a period of one year and made readily available for inspection by agents of the Department of Health and Hospitals, Department of Wildlife and Fisheries and the U.S. Food and Drug Administration. Log sheets for the current and previous 15 days harvest shall be kept aboard the harvest vessel for immediate examination.

9:052-2 Refrigeration Requirements for Shell-stock Harvested for Shucking by a Certified Dealer During the Months April Through October

Time to refrigeration requirements for shell-stock harvested for shucking by a certified dealer during the months April through October shall be as follows:

A. All shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45° F no later than 12 Midnight each day.

B. A Harvester-Dealer Time/Temperature Log Sheet (see Table I) shall be completed by both the harvester and first certified dealer to document compliance with time to refrigeration requirements during the April through October time period. Log sheets shall be maintained for a period of one year and made readily available for inspection by agents of the Department of Health and Hospitals, Department of Wildlife and Fisheries and the U.S. Food and Drug Administration. Log sheets for the current and previous 15 days harvest shall be kept aboard the harvest vessel for immediate examination.

C. Dealer/harvester tags utilized to identify shell-stock harvested for shucking by a certified dealer shall be stamped with the following wording in "neon green" letters: "FOR SHUCKING BY A CERTIFIED DEALER."

9:052-3 General Provisions

A. Shell-stock harvested for delivery to a steam factory for canning and thermal processing shall be landed at the factory within 72 hours from the time harvesting begins. The time harvesting begins and the time of arrival at the factory shall be recorded on the harvester's invoice.

B. If a harvester elects to fish both shell-stock intended for raw consumption and for shucking by a certified dealer on the same day, it shall be his responsibility to properly separate and identify the two types of shell-stock.

C. Except for deliveries made to a shellfish dealer certified by the office of public health for inclusion on the U.S. Food and Drug Administration's Interstate Shellfish Shippers List and located less than 30 minutes from dockside, all land based deliveries of shell-stock shall be made aboard mechanically refrigerated trucks with an internal air temperature of 45° F or less as measured 12 inches from the blower. For shipments by air, an internal meat temperature of 45° F or less shall be maintained at all times. To accomplish this it shall be necessary to pre-chill shell-stock to an internal temperature of 40° F or less prior to being packed into insulated boxes with frozen gel packs.

D. When shell-stock are temporarily off-loaded for any reason, storage must be on pallets or on a well graded paved surface, with direct exposure to the sun limited to no more than 30 minutes.

E. Alternate designs for the Harvester-Dealer Time/Temperature Log Sheet as depicted in Table I may be submitted for consideration and approval to the Office of Public Health.

9:052-4 Penalties

Shell-stock not produced in accordance with the requirements outlined in 9:052 through 9:052-3 shall be deemed adulterated and shall be subject to seizure and destruction.

**TABLE I
HARVESTER-DEALER TIME/TEMPERATURE
LOG SHEET**

Harvester Information:

BOAT NAME/NUMBER: _____

HARVESTER NAME/ LICENSE NUMBER: _____

HARVESTER SIGNATURE DATE: _____

Molluscan shellfish harvested for other than raw (half shell) consumption:

HARVESTING AREA/LEASE NUMBER: _____

PRODUCT INTENDED FOR OTHER THAN RAW CONSUMPTION:

CIRCLE ONE:

BEDDING SHUCKING RELAYING OTHER (EXPLAIN)

TIME HARVESTING BEGINS: _____

TIME HARVESTING ENDS: _____

NUMBER OF SACKS OF OYSTERS HARVESTED: _____

Molluscan shellfish harvested for raw (half shell) consumption:

HARVESTING AREA/LEASE NUMBER: _____

TIME HARVESTING BEGINS: _____

NUMBER OF SACKS OF OYSTERS HARVESTED: _____

Certified Dealer Information:

TEMPERATURE OF COOLER WHEN UNLOADING OYSTERS
BEGINS: _____
TIME WHEN LAST OYSTERS FROM BOAT ARE PLACED IN
COOLER: _____
TEMPERATURE OF COOLER WHEN LAST OYSTERS FROM THE
BOAT ARE PLACED IN COOLER: _____
ORIGINAL CERTIFIED DEALER SIGNATURE: _____

(OR AUTHORIZED REPRESENTATIVE)

DATE: _____

* * *

Bobby T. Jindal
Secretary

9605#010

DECLARATION OF EMERGENCY

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

Professional Services Program—Neonatology Services

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

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses neonatology services according to established per diem rates for applicable Physicians' Current Procedural Terminology (CPT) codes. Effective July 7, 1995 and October 28, 1995 (*Louisiana Register*, Volume 21, Numbers 7 and 11) the bureau reduced the per diem rates for the following procedure codes to the following amounts:

- CPT code 99295 - \$323.90
- CPT code 99296 - \$190.20
- CPT code 99297 - \$150.10
- CPT code 99297-52 ("step-down" babies) - \$60.04.

The department subsequently determined that it was necessary to make an adjustment in the above per diem rates in order to meet federal assurance requirements that there are a sufficient number of Medicaid providers for the delivery of these services. Therefore, effective January 21, 1996 the department adopted the following adjusted per diem rates for the neonatology procedure codes specified above.

Continuation of this January 1996 emergency rule is necessary to maintain the cost savings initiative for these services and thereby avoid a budget deficit in the medical assistance programs while also assuring an adequate number of providers for these services.

Emergency Rule

Effective for dates of service of May 19, 1996 and after, the

Department of Health and Hospitals, Bureau of Health Services Financing adopts the following per diem rates for neonatology services according to the amounts listed for each of the following procedure codes:

- CPT code 99295 - \$596.46
- CPT code 99296 - \$279.52
- CPT code 99297 - \$143.42
- CPT code 99297-52 ("step-down" babies) - \$57.37

Bobby P. Jindal
Secretary

9605#046

DECLARATION OF EMERGENCY

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

Reimbursement Methodology for Private
Nursing Facility Services

The Department of Health and Hospitals, Office of Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Bureau of Health Services Financing established the prospective reimbursement methodology for private nursing facility services effective August 1, 1984 by rule as published in the June 20, 1994 issue of the *Louisiana Register* (Volume 10, Number 6, pages 467-468). This methodology utilizes a base rate determined according to a uniform recipient Level of Care designation (Intermediate Care-I, Intermediate Care-II and Skilled Nursing) which is adjusted by specific economic indices. Subsequently, the provisions of nursing home reform as mandated by the Omnibus Budget Reconciliation Act of 1987 were established by rule in the December 20, 1990 issue of the *Louisiana Register* (Volume 16, Number 12, page 1061). In addition, subsequent rules have been adopted for specialized nursing facility Levels of Care for specific patient types (SN-Infectious Disease, SN- Technology Dependent Care and SN-Neurological Rehabilitation Treatment Program).

The Department of Health and Hospitals adopted the following rule through emergency rulemaking as published in the *Louisiana Register*, January, May, September and December, 1995 (Volume 21, Numbers 1, 5, 9 and 12). This emergency rule repeals the August 1, 1984 rule and adopts provisions to govern private nursing facility services which re-establish a prospective cost-related methodology based on specific cost categories for each Level of Care and specifies the inflationary adjustment mechanism or recalculation period. Within this framework the following changes are included: the new categories consist of three direct and five indirect resident care costs and the incentive factor; the annual

wage for nonsupervisory service workers is deleted as a single component but the following categories where these and other costs are incorporated, i.e., housekeeping/linen/laundry, other dietary, plant operation and maintenance, administrative and general are established; nursing services cost are limited to one category. This revision of the methodology represents an improved and more efficient manner for determining cost factors reimbursable under the Medicaid Program. The calculation of the incentive factor remains at 5 percent but excludes building costs from the computation. The percentiles to be utilized are changed from the single current 60th percentile to the following percentiles: direct resident care costs (80th); indirect resident care costs are at the 60th percentile except housekeeping/linen/laundry (70th). The required nursing service hours remain at the current levels: the intermediate care levels one and two remain at 2.35, and the skilled nursing level continues to be 2.6. Also, the current rules for specialized levels of nursing facility care, i.e., Technology Dependent Care, Infectious Disease, and the Neurological Rehabilitation Treatment Program are not revised in the following rule.

The Department of Health and Hospitals now finds it necessary to continue in force the emergency rule through May 31, 1996 in order to allow additional time for input from affected parties.

Emergency Rule

Effective April 24, 1996, the Bureau of Health Services Financing repeals the August 1, 1984 rule governing reimbursement for private nursing facility services and adopts the following methodology and provisions to govern reimbursement of these services for Medicaid recipients. Reimbursement for the nursing home reform requirements of the Omnibus Budget Reconciliation Act of 1987 are incorporated in the following methodology and provisions. Costs are determined based upon audited and or desk reviewed cost reports to calculate the new base rate components.

REIMBURSEMENT METHODOLOGY FOR PRIVATE NURSING FACILITIES

A. General Provisions

1. The bureau has designated a system of prospective payment amounts based on recipient Levels of Care: Intermediate Care I (IC-I); Intermediate Care II (IC-II); Skilled Nursing (SN); Skilled Nursing/Infectious Disease (SN/ID) and Skilled Nursing/Technology Dependent Care (SN/TDC); Neurological Rehabilitation Treatment Program (NRTP), which includes Rehabilitation Services; and Complex Care Services.

2. Facilities may furnish services to patients of more than one classification of care. Every nursing facility provider must meet the nursing home reform requirements of OBRA 1987.

3. Determination of Limits. Cost limits will be established based on a statistical analysis of industry data to assure that total payments under the plan will not exceed Title

XVIII reimbursement. The ceiling limitation on reasonable cost will be set at a level the state determines adequate to reimburse an efficiently operating facility. Incentive for efficient operation will be allowed as a profit opportunity for providers who provide required services at a cost below the industry average.

4. Maximum Rate. The state will make payment at the statewide rate for the patient Level of Care provided or the provider's customary charge to the public, whichever is lower.

B. Cost Determination

1. Definitions

a. Consumer Price Indices

CPI-Administrative and General—the Consumer Price Index - South Region (All Items line) as published by the United States Department of Labor.

CPI-Housekeeping/Linen/Laundry—the Consumer Price Index for All Urban Consumers - South Region (All Items line) as published by the United States Department of Labor.

CPI-Nursing Services—the Consumer Price Index for All Urban Consumers - South Region (Medical Care Services line) as published by the United States Department of Labor.

CPI-Other Dietary—the Consumer Price Index for All Urban Consumers - South Region (All Items line) as published by the United States Department of Labor.

CPI-Plant Operation and Maintenance—the Consumer Price Index - South Region (All Items line) as published by the United States Department of Labor.

CPI-Raw Food—the Consumer Price Index for All Urban Consumers - South Region (Food line) as published by the United States Department of Labor.

CPI-Recreation—the Consumer Price Index for All Urban Consumers - South Region (All Items line) as published by the United States Department of Labor.

b. Economic Adjustment Factors. Each of the above economic adjustment factors is computed by dividing the value of the corresponding index for December of the year preceding the rate year by the value of the index one year earlier (December of the second preceding year).

c. Rate Year. The rate year is the one-year period from July 1 through June 30 of the next calendar year during which a particular set of rates is in effect. It corresponds to a state fiscal year.

d. Base Rate. The base rate is the rate calculated in accordance with B.3.b.

e. Base Rate Components. The base rate is the summation of the components shown in Table I. Each base rate component is intended to reimburse for the costs indicated by its name.

2. Table I. Base Rate Components

A	B	C
Preceding Rate Year Base Rate Component	Economic Adjustment Factor	New Base Rate Component
DIRECT RESIDENT CARE COSTS:		
Nursing Services (NSCC)	CPI - Medical Care Services	New NSCC
Raw Food (RFCC)	CPI - Food	New RFCC
Recreational (RCC)	CPI - All Items	New RCC
INDIRECT RESIDENT CARE COSTS:		
Housekeeping/Linen/ Laundry (HLLCC)	CPI - All Items	New HLLCC
Other Dietary (ODCC)	CPI - All Items	New ODCC
Plant Operation and Maintenance (POMCC)	CPI - All Items	New POMCC
Administrative and General (AGCC)	CPI - All Items	New AGCC
Building Costs ¹ (BCC)	Recompute annually	New BCC
Incentive Factor ² (IF)	Recompute annually	NEW IF

¹ The base rate is established computing an average fair rental value on nursing home beds as follows:

Step 1. Base Value of a Nursing Home Bed. The base value of a nursing facility bed is determined by the median value of the cost of a nursing home bed, adjusted for Louisiana, as published in the *Building Construction Cost Data* by R.S. Means for the previous rate year and then adjusted for occupancy. The adjustment for Louisiana is computed by multiplying the median value by the simple average of the adjustment factors listed for Louisiana metropolitan areas. This result is then divided by a statewide occupancy factor based on the LTC2 for the third quarter of the preceding calendar year.

Step 2. Rental Value. The base value as computed above is multiplied by 150% of the 30 year Treasury Bill Rate as of December 31, 1993. The result of this computation is then converted to a daily rental value rate.

² The Incentive Factor component is computed based on 5% of the sum of the base rate components excluding the Building Cost Component.

3. Base Rate Determination and Percentile Levels. Rate determination is made according to a uniform recipient Level of Care rate which is adjusted annually from the base rate using the economic indices specified in the plan. In all calculations, the base rate and the base rate components will be rounded to the nearest one cent (two decimal places) and the Economic Adjustment Factors will be rounded to four decimal places.

a. Determination of Inflation Adjustment Factor. The determination of the inflation adjustment factor is based on the Consumer Price Index (CPI) as described in Section B.1.b.

b. Calculation of Base Rate. Separate daily rates will be calculated for each recipient Level of Care (IC-I, IC-II, and SN). The rate for each Level of Care will be set at an amount which the state determines is reasonable to reimburse

adequately in full the allowable cost of providing care in a provider facility that is economically and efficiently operated. The rate for each Level of Care will be recalculated each year and will be effective for July services. The rate for each Level of Care shall be calculated by multiplying each specific rate component by the corresponding economic adjustment factor as specified in Table I. The nursing services component of the base rate differs by the Level of Care as a result of the minimum number of nursing hours required for the Level of Care as mandated by the Standards for Payment for Nursing Facility Services as follows intermediate care levels one and two 2.35 and skilled nursing 2.6.

c. The following percentiles are used in calculating the base rate:

direct resident care costs	80th
housekeeping/linen/laundry	70th
other indirect resident care costs exclusive of building costs and incentive factor	60th

A percentile factor is not applicable to the building costs and incentive component.

d. Base Value of a Nursing Facility Bed. The base value of a nursing facility bed is determined by the median value of the cost of a nursing home bed, adjusted for Louisiana, as published in the *Building Construction Cost Data* by R.S. Means for the previous rate year and then adjusted for occupancy. The adjustment for Louisiana is computed by multiplying the median value by the simple average of the adjustment factors listed for Louisiana metropolitan areas. This result is then divided by statewide occupancy factor based on the LTC2 for the third quarter of the preceding calendar year.

e. Rental Value. The base value as computed above is multiplied by 150 percent of the 30-year Treasury Bill Rate as of December 31, 1993. The result of this computation is then converted to a daily rental value rate.

f. Incentive Factor. The incentive factor component is computed based on 5 percent of the sum of the base rate components excluding the Building Cost Component.

g. Annualization

i. Base Rate Components. After formal adoption of the new rate, the components computed above will become the base rate components used in calculating the next year's new rate, unless they are adjusted as provided in Section B.4 and B.5.

ii. New Base Rate Components. The base rate components are adjusted annually (each rate year) by the economic adjustment factors as listed in Table I. This computation is performed by multiplying the preceding year base rate component (Table I, Column A) multiplied by the applicable economic adjustment factor (Table I, Column B). The product becomes the new base rate component. The building cost component and the return on equity factor are recomputed annually as described in the footnotes to Table I.

4. Interim Adjustment to Rates. If an unanticipated change in conditions occurs which affects the cost of a Level of Care of at least 50 percent of the enrolled nursing homes providing that Level of Care by an average of 5 percent or

more, the rate may be changed. The Bureau of Health Services Financing will determine whether or not the rates should be changed when requested to do so by 10 percent or more of the enrolled nursing homes, or an organization representing at least 10 percent of the enrolled nursing homes providing the Level of Care for which the rate change is sought. The burden of proof as to the extent and cost effect of the unanticipated change will rest with the entities requesting the change. In computing the costs, all capital expenditures will be converted to interest and depreciation. The Bureau of Health Services Financing, however, may initiate a rate change without a request to do so. Changes to the rates may be one of two types:

a. temporary adjustments; or

b. base rate adjustments as described below:

i. Temporary Adjustment. Temporary adjustments do not affect the base rate used to calculate new rates.

(a). Changes that will be reflected in the economic indices. Temporary adjustments may be made when changes which will eventually be reflected in the economic indices occur after the end of the period covered by the index, i.e., after the December preceding the rate calculation. Temporary adjustments are effective only until the next annual base rate calculation.

(b). Lump Sum Adjustments. Lump sum adjustments may be made when the event causing the adjustment requires a substantial financial outlay. Such adjustments shall be subject to BHSF review and approval of costs prior to reimbursement. These changes are usually specific to *Federal Register* changes or "Standards for Payment Changes" which result in a significant one time cost impact on the facility. In the event of an adjustment, the providers will be responsible for submitting to the bureau documentation to support the need for lump sum adjustment and related cost data upon which the bureau can calculate reimbursement.

ii. Base Rate Adjustment. A base rate adjustment will result in a new base rate component or a new base rate component value which will be used to calculate the new rate for the next year. A base rate adjustment may be made when the event causing the adjustment is not one that would be reflected in the indices.

C. Filing of Cost Reports

1. Providers of nursing home services under Title XIX are required to file annual cost reports for evaluation for each patient Level of Care for which services were rendered during the year. A chart of accounts and an accounting system on the accrual basis are used in the evaluation process.

2. The bureau's personnel or its contractual representative will perform desk reviews of the cost reports within six months of the date of submittal. In addition to the desk review, a representative number of the facilities are subject to a full-scope, on-site audit annually.

3. Cost reports will be compared by the Bureau of Health Services Financing to the rates calculated by this methodology at least every three years to insure that the rates remain reasonably related to costs. When indicated by such comparison, base rate component and the overall base rate will be adjusted to reflect cost experience.

a. Initial Reporting. The initial cost report submitted by Title XIX providers of long term care services must be based on the most recent fiscal year end. The report must contain costs for the 12 month fiscal year.

b. Subsequent Reports. Cost reports shall be submitted annually by each provider within 90 days of the close of the facility's normal fiscal year end. Cost reports filed subsequent to interim rate adjustments may be used to validate an interim rate adjustment.

4. Exceptions. Limited exceptions to the report requirement will be considered on an individual facility basis upon written request from the provider to Department of Health and Hospitals, Chief, Health Standards Section. If an exception is allowed, providers must attach a statement describing fully the nature of the exception for which written permission has been requested and granted prior to filing of the cost report. Exceptions which may be allowed with written approval are as follows:

a. For the initial reporting period only, the provider may allocate costs to the various cost centers on a reasonable basis if the required itemized cost breakdown is not available.

b. If the facility has been purchased, leased or has effected major changes in the accounting system as an on-going concern within the past 12 months, a six-month cost report may be filed in lieu of the required 12-month report.

c. If the facility experiences unavoidable difficulties in preparing the cost report by the prescribed due date, an extension may be requested prior to the due date. Requests for exception must contain full statement of the cause of difficulties which rendered timely preparation of the cost report impossible.

d. If a facility is new, it will not be required to file a cost report for rate setting purposes until one full operating year is completed.

5. Sales of Facilities

a. In the event of the sale of a Title XIX facility, the seller is required to submit a cost report from the date of its last fiscal year end to the date of sale.

b. If the purchaser continues the operation of the facility as a provider of Title XIX services, he is required to furnish an initial cost report covering the date of purchase to the end of the facility fiscal year under his ownership. Thereafter, the facility will file a cost report annually on the purchaser's designated fiscal year end.

EXAMPLE: Mr. X purchased facility J from Mr. Q on September 1, 1993. Facility J's fiscal year end, prior to purchase, was 12/31/93. Mr. Q is required to file a cost report for the period 1/1/93 through the period 8/31/93. If Mr. X decides to change facility J's fiscal year end to 6/30/93, his first report will be due for the nine month period ending 6/30/94, and annually thereafter. NOTE: Facilities purchased as on-going concerns are not considered new facilities for cost reporting purposes.

6. New Facilities

a. For cost reporting purposes a new facility is defined as a newly constructed facility. A new facility is paid the applicable patient Level of Care rates. A new facility is not required to file a cost report for rate setting purposes until one full operating year has been completed.

b. A facility purchased as an on-going concern is not considered a new facility for reimbursement rate

determination. Cost data shall be submitted as required for the original ownership. Any additional costs, such as increased depreciation, interest, etc., will be reflected in the future year's per diem rates only.

Bobby P. Jindal
Secretary

9605#008

DECLARATION OF EMERGENCY

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

Vaccines for Children Program

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

The Omnibus Budget Reconciliation Act of 1993, Public Law 103-66 Section 13631 created the Pediatric Vaccine Distribution Program (known as the Vaccines for Children Program) which became effective October 1, 1994, but was not mandated until October, 1995. OBRA 1993 added a new Section 1928 to the Social Security Act which requires that states establish a program for the purchase and distribution of pediatric vaccines to providers qualified under and registered with the program for the purpose of immunizing children eligible under the act. One of the federally mandated groups of children who are entitled to receive immunizations without charge for the cost of vaccines to their parents/guardians are Medicaid eligible children. Therefore, the Medicaid Program is required to reimburse qualified and registered providers for the administration of the immunization to Medicaid eligible children. The U. S. Health and Human Services' Center for Disease Control and the Office of Public Health within the Department of Health and Hospitals are responsible for the distribution of these vaccines to private providers who are registered and qualified under the federal requirements to receive and administer these vaccines. At this time the Office of Public Health is able to distribute these vaccines to their public health units and the federally qualified health centers, as well as to private providers.

An emergency rule was initially adopted on January 20, 1995 (*Louisiana Register*, Volume 21, Number 1) and readopted in May and September, 1995 (*Louisiana Register*, Volume 21, Numbers 5 and 9) and January 1996 (*Louisiana Register*, Volume 22, Number 1). This emergency rule is being continued in force to provide for the continuation of the Vaccines for Children Program and the implementing regulations in order to comply with federal law and thereby

avoid possible sanctions or penalties by the federal government.

Emergency Rule

Effective May 14, 1996, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the Medicaid Vaccines for Children Program whereby the bureau will reimburse qualified and registered providers only for the administration of the pediatric vaccines. This program has been instituted through a phase-in process to allow for the distribution of these vaccines on a statewide basis to both public and private providers. Initial distribution was only to the Office of Public Health Units and Federally Qualified Health Centers and private providers have now been phased in. The Medicaid Program will no longer pay for the vaccines, only administration, effective for date of service April 1, 1996. The following provisions govern the reimbursement of pediatric vaccines under the Medicaid Vaccines for Children Program.

1. A qualified and registered provider must:
 - A. be a licensed health care provider who has authority under Louisiana state law to administer pediatric vaccines;
 - B. be an enrolled Medicaid provider and an enrolled Vaccines for Children Program provider; and
 - C. not have been found by the Health Care Financing Administration or Louisiana to have violated a provider agreement or other applicable requirements.
2. Medicaid reimbursement for the administration cost of the pediatric vaccines is \$9.45 for the first year and this rate will be inflated by the "Medical - All Items line" of the Consumer Price Index (CPI) for each of the succeeding two years; and
 - A. is provided only for Medicaid eligible children; and
 - B. shall be made only for the administration of vaccines in accordance with the immunization schedule adopted by the National Academy of Pediatrics as required by the KIDMED Program under the Medicaid Program.
3. Medicaid reimbursement for the cost of the pediatric vaccines administered to Medicaid-eligible children is \$9.45 for the administration cost.
4. The pediatric vaccines included under the Medicaid Vaccines for Children's Program include the following:
 - A. DTaP-Diphtheria, Tetanus and acellular Pertussis;
 - B. DTP-Diphtheria, Tetanus, Pertussis;
 - C. MMR-Measles, Mumps and Rubella;
 - D. Poliovirus;
 - E. Hep B - Hepatitis B;
 - F. HIB - Hemophilus Influenza B;
 - G. Td - Tetanus diphtheria;
 - H. DTP - HIB combination vaccine.

Bobby P. Jindal
Secretary

9605#039

DECLARATION OF EMERGENCY

**Department of Treasury
Housing Finance Agency**

**Selection Criteria to Award HOME Funds
(LAC 16:II.105)**

The Housing Finance Agency, in accordance with R.S. 40:600.6(A)(4), has exercised the emergency rule provision of the Administrative Procedure Act, R.S. 49:953, to adopt the following emergency rule regarding the Selection Criteria to Award HOME Funds to Affordable Rental Housing Projects. This emergency rule became effective April 24, 1996 and shall remain in effect for a period of 120 days or until a final rule is promulgated, whichever occurs first.

Emergency rulemaking is necessary because there are financing commitments that are necessary to be entered into in order to construct, acquire, rehabilitate and equip housing for low and very low income households. The funding rounds that are established for the federal Low Income Housing Tax Credit Program are well established and that the federal HOME funding round must parallel the funding of the Low Income Housing Tax Credit Program in order to avoid the loss of affordable housing units in the state of Louisiana. The rule is necessary in order to adjust the agency's selection criteria to better address the housing needs identified in the State of Louisiana's Consolidated Plan.

Title 16

COMMUNITY AFFAIRS

Part II. Housing Finance Agency

Chapter 1. HOME Investment Partnership Program

**§105. Selection Criteria to Award HOME Funds for
Affordable Rental Housing**

Applications for HOME Funds will be rated in accordance with the selection criteria (Appendix IX) for which the applicant must initially indicate that the project qualifies.

Appendix IX

**Selection Criteria to Award HOME Funds
to Affordable Rental Housing Projects**

The applicant hereby requests priority consideration based upon the project satisfying one or more of the following conditions (minimum threshold of 75 points required):

	POINTS
(A) Leverage Ratio for Each HOME Dollar	
Minimum Other Dollars	
\$1	0 _____
\$2	20 _____
\$3	25 _____
\$4	30 _____
\$5	35 _____
\$6	40 _____
\$7	45 _____
\$8	50 _____

(B) Project to reconstruct or rehabilitate substandard housing units to minimum quality standards with total funds per unit not exceeding:

\$ 2,500	50 _____
\$ 5,000	40 _____
\$ 7,500	30 _____
\$10,000	20 _____
\$15,000	10 _____

(C) Project to rehabilitate housing units of historic or architectural significance:

25 _____

(D) Project to rehabilitate or create housing units serving special needs groups (check one or more):

- Elderly/Handicapped _____
- Homeless _____
- Physically Disabled _____
- Mentally Disabled _____
- HIV/AIDS _____

(i) 100 percent of units serve or 50 units serve special needs group

25 _____

(ii) 50 percent or 25 units serve special needs group

15 _____

(iii) 25 percent or 15 units serve special needs group

10 _____

(E) Project serves large families percentage of units having four or more bedrooms:

- (i) 5 percent but less than 10 percent
- (ii) 10 percent but less than 15 percent
- (iii) 15 percent but less than 20 percent

10 _____

15 _____

25 _____

(F) Project involves lease to own program

50 _____

(G) Project located in qualified census tract/difficult to develop:

Area or RECD target area

50 _____

(H) Project to provide supportive services (attach description of supportive services to be provided and identify source of funding)

40 _____

(I) Developer fees are less than 10 percent of total development cost under subsidy:

Layering review guidelines

25 _____

(J) Project involves local nonprofit or CHDO as co-developer:

25 _____

TOTAL _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Housing Finance Agency, LR 19:908 (July 1993), amended LR 21:959 (September 1995), LR 22:

V. Jean Butler
President

9605#009

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Office of Fisheries

Southern Flounder Commercial Harvest

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act; R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons; and R.S. 56:325.4 which provides that the secretary of the department must declare a closed season when it is determined that the spawning potential ratio of flounder is below 30 percent; and R.S. 56:317 which allows the secretary to close a fishing season or restrict fishing in the closed season in any manner deemed advisable upon securing evidence that the fish in state waters have been depleted through overfishing or that fishing is detrimental to the interest of the state, the secretary of the Department of Wildlife and Fisheries found that an imminent peril to the public welfare existed and adopted by emergency rule a statewide closure of the commercial harvest and possession of southern flounder (*Paralichthys lethostigma*) from May 1, 1996 until May 1, 1997.

However, the secretary has determined since the promulgation of the above declaration of emergency that the closure should be modified to allow persons aboard vessels which contain legal commercial fishing gear, other than strike nets, to possess and sell up to the daily possession limit of 10 southern flounder (*Paralichthys lethostigma*). Additionally, the closure should take into account the disposition of two classes of legally harvested commercial flounder. The secretary finds that an imminent peril to the public welfare would exist if this rule is not adopted effective May 1, 1996 concurrently with the previously referenced declaration of emergency.

1. The initial declaration of emergency did not, but should have contained a provision allowing for the possession and sale of southern flounder legally taken prior to the May 1 closure. Such a provision should be included and should take effect concurrently with the closure.

2. The initial declaration of emergency did not contain a provision to allow for the possession and sale of southern flounder legally imported into the state from other states or foreign countries. Such a provision should take effect concurrently with the closure.

3. Since the initial declaration of emergency, the Wildlife and Fisheries Commission has acted to impose a recreational daily take and possession limit of 10 fish effective May 1, 1996. This in and of itself makes the closure of the commercial fishery more enforceable and at the same time offers an opportunity for a limited commercial fishery without, in the opinion of the secretary, doing harm to the resource.

4. It is important that the provisions contained within this declaration of emergency take effect concurrently with the closure so that fishermen and department enforcement agents will not be faced with the confusion and other problems

associated with enforcement of three varying sets of regulations within a 120-day period. Promulgation of these provisions concurrently with the closure will allow the closure to take effect together with those provisions which the secretary deems necessary for fairness, enforceability and biological monitoring purposes.

5. Promulgation of these provisions will mean that biological data as well as data on the commercial fishermen harvesting southern flounder will be continuously available from the limited commercial fishery. Fishery dependent and fishery independent data sources are essential to understanding the status of flounder fishery stocks and to identify causes of changes in stock abundances.

Therefore, in accordance with R.S. 49:953.B, 49:967, 56:317 and 56:6, the secretary does hereby promulgate this emergency rule as follows:

Other provisions of law notwithstanding, a properly licensed commercial vessel which contains legal commercial fishing gear, other than strike nets, may have on board up to a daily possession limit of 10 southern flounder (*Paralichthys lethostigma*) per person on board. A properly licensed commercial fisherman who is not on a vessel and who is using legal gear, other than strike nets, may possess up to a daily possession limit of 10 southern flounder (*Paralichthys lethostigma*). Southern flounder (*Paralichthys lethostigma*) legally possessed under this rule may be purchased, bartered, traded, exchanged or sold.

Other provisions of law notwithstanding, nothing shall prohibit the possession or sale of southern flounder (*Paralichthys lethostigma*) legally taken prior to the closure providing that all commercial dealers possessing southern flounder (*Paralichthys lethostigma*) taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.4.

Effective with this rule, in addition to all records otherwise required by law, wholesale/retail dealers shall maintain records indicating the number and poundage of southern flounder (*Paralichthys lethostigma*) for each transaction when southern flounder (*Paralichthys lethostigma*) are acquired, possessed or transferred.

Commercial dealers possessing southern flounder (*Paralichthys lethostigma*) legally imported into the state shall maintain appropriate records in accordance with other provisions of law. The effective date of this declaration of emergency shall be May 1, 1996.

James H. Jenkins, Jr.
Secretary

9605#004

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

1996 Inshore Spring Shrimp Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure

Act, which allow the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and shall have the authority to open or close outside waters, the Wildlife and Fisheries Commission does hereby set the 1996 Spring Inshore Shrimp Season to open as follows:

Zone 1: that portion of Louisiana's inshore waters from the Mississippi state line to the eastern shore of South Pass of the Mississippi River, to open at 6 a.m., May 29, 1996; and

Zone 2: that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Vermillion Bay and Southwest Pass at Marsh Island, to open at 6 a.m., May 29, 1996; and

Zone 3: that portion of Louisiana's inshore waters from the western shore of Vermillion Bay and Southwest Pass at Marsh Island westward to the Texas state line, to open at 6 a.m., May 29, 1996.

The commission also hereby grants to the secretary of the Department of Wildlife and Fisheries the authority to close any zone or portion of the state's water to protect small white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop.

Glynn Carver
Chairman

9605#022

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Oyster Season Extension

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 967, and under the authority of R.S. 56:6(25)(a), R.S. 56:433 and R.S. 56:435.1, notice is hereby given that the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declares:

1. the oyster season on the public oyster grounds are to be reopened and extended to one-half hour after sunset April 30, 1996;

2. the Bay Junop Oyster Seed Reservations will remain closed during this extension.

Glynn Carver
Chairman

9605#002

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Southern Flounder Recreational Harvest (LAC 76:VII.353)

The Wildlife and Fisheries Commission does hereby exercise the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) and 49:967(D), and pursuant to its authority under R.S. 56:6(25)(a), 56:326.1 and 56:326.3 adopts the rule set forth below. This emergency rule is necessary to expedite the enforceability and effectiveness of regulations on the commercial flounder fishery, which becomes effective May 1, 1996. It is therefore in the best interest of the state, and appropriate that these regulations be enacted concurrently, thereby requiring emergency action.

This emergency rule shall be effective on May 1, 1996 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§353. Recreational Harvest of Southern Flounder

The daily take and possession limit for the recreational taking of southern flounder (*Paralichthys lethostigma*) caught within or without Louisiana waters shall be 10 fish per day and in possession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:326.1 and 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:

Glynn Carver
Chairman

9605#003

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 741—Handbook for School Administrators

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has adopted numerous amendments to *Bulletin 741, Louisiana Handbook for School Administrators*.

Any standard(s) affected by inserting a new standard will be renumbered accordingly.

Complete text of the amendments to Bulletin 741 are available at a cost of \$2 from the Office of the State Register, Fifth Floor, Capitol Annex. Please reference document 9605#042.

Carole Wallin
Executive Director

9605#042

RULE

Board of Elementary and Secondary Education

Bulletin 741—Instructional Staff/Religion

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted the following amendments to Bulletin 741, *Louisiana Handbook for School Administrators, Public and Nonpublic*.

Nonpublic School Standards

Amend Standard 6.016.15 to read:

"All members of the instructional staff teaching secular subjects, Pre-kindergarten through 12, shall have received a bachelor's degree from a regionally accredited institution."

Add a procedural block after Standard 6.016.15 to read:

"Staff members teaching religion at the high school level (9-12) for Carnegie units must have a minimum of a bachelor's degree." Staff members teaching religion that do not meet minimum qualifications may be retained in a school provided they were employed during the 1995-96 school year as teachers of religion."

* * *

After Standard 6.105.23 (course credit for religion) amend the following procedural block to read:

"A maximum of four units in religion shall be granted to students transferring from state-approved private and sectarian high schools. Those credits shall be accepted in meeting the requirements for high school graduation."

(NOTE: the standard currently allows two units.)

* * *

Public School Standards

Standard 2.105.23 amended to read:

"A maximum of four units in religion shall be granted to students transferring from state-approved private and sectarian high schools who have completed such course work. Those credits shall be accepted in meeting the requirements for high school graduation."

(NOTE: the standard currently allows two units.)

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

Carole Wallin
Executive Director

9605#043

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship and Grant Manual

The Louisiana Student Financial Assistance Commission (LASFAC) rescinds the October 20, 1991 Scholarship and Grant Policy and Procedure Manual and its supplementing Scholarship Program Memoranda (SPMs) and replaces it with a revised and updated manual effective April 20, 1996.

LASFAC supplies copies of the manual to schools participating in the scholarship and grant programs administered by the commission.

The manual can be obtained from the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802, at a cost of \$14. Please reference the document number below.

Jack L. Guinn
Executive Director

9605#037

RULE

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

Miscellaneous Amendments
(LAC 33:III.509, 918, 919,
2123, and 3107)(AQ136)

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.509, 918, 919, 2123, and 3107 (AQ136).

This rule will provide miscellaneous corrections in Chapters 5, 9, 21, and 31. It will remove newly designated ozone attainment parishes from tables in Chapters 5 and 9 and add Livingston Parish to §509 that was omitted in error. It will also correct a mailing address in Chapter 31, remove a reporting requirement in Chapter 9, and clarify LAC 33:III.2123 to include oilfield tubulars and ancillary oilfield equipment.

This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§509. Prevention of Significant Deterioration

* * *

[See Prior Text in A-B.Baseline Area.2]

Ascension
Calcasieu
East Baton Rouge
Iberville
Livingston
Point Coupee
West Baton Rouge

* * *

[See Prior Text in B.Baseline Concentration-S.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996).

Chapter 9. General Regulations on Control of Emissions and Emission Standards

§918. Recordkeeping and Annual Reporting

Data for emission reports should be captured annually. These reports are to be submitted to the department by March 31 of each year (for the period January 1 to December 31 of the previous year) unless otherwise directed by the department. The report should include all data applicable to the emission source or sources which may be required under LAC 33:III.919.A.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:339 (May 1996).

§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]

1. Any facility in an attainment area or unclassified area that emits or has the potential to emit 100 tons per year (TPY) or more of any contaminant [including volatile organic compounds (VOC)] for which a National Ambient Air Quality Standard (NAAQS) has been issued; or any facility in a marginal, moderate, or serious ozone nonattainment area (See Table 1) that emits or has the potential to emit 10 TPY VOC, 25 TPY nitrogen oxide (NO_x), or 100 TPY carbon monoxide (CO) or any other contaminant for which a NAAQS has been issued; or any facility that emits or has the potential to emit 50 TPY or more of VOC or 100 TPY or more of any other contaminant for which a NAAQS has been issued in an area designated as an ozone adjoining area (See Table 2) to a listed marginal, moderate, or serious ozone nonattainment area. (Potential to emit refers to the "allowables" or permitted emission limits in a facility's permit.) If any pollutant meets the criteria above, then all other air pollutants for which a NAAQS has been issued must be included in the report regardless of level of emissions.

* * *

[See Prior Text in A.2]

3. In Louisiana, the following facility classes or categories are exempted: None.

Table 1	
Ozone Nonattainment Parishes	
Ascension - Serious	
Calcasieu - Marginal	
East Baton Rouge - Serious	
Iberville - Serious	
Livingston - Serious	
Pointe Coupee - Serious	
West Baton Rouge - Serious	

Table 2
Adjoining Parishes
Assumption
Avoyelles
Beauregard
Cameron
East Feliciana
Iberia
Jefferson Davis
St. Helena
St. James
St. John the Baptist
St. Landry
St. Martin
Tangipahoa
West Feliciana

[See Prior Text in B-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 20:1101 (October 1994), LR 22:339 (May 1996).

Chapter 21. Control of Emission of Organic Compounds

Subchapter B. Organic Solvents

§2123. Organic Solvents

[See Prior Text in A-C.10]

Affected Facility	Daily Weighted Average VOC Emission Limitation	
	Lbs. Per Gal. of Coating as applied (minus water and exempt solvent)	Kgs. Per Liter of Coating as applied (minus water and exempt solvent)
11. Surface Coating for Marine Vessels and Oilfield Tubulars and Ancillary Oilfield Equipment.		
*** [See Prior Text in 11.a]		
b. Except for the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge, in which the VOC limitations in LAC 33:III.2123.C.11.a may not be exceeded, specialty marine coatings and coatings on oilfield tubulars and ancillary oilfield equipment with a VOC content not in excess of the following limits may be applied:		
*** [See Prior Text in Heat Resistant-F.4]		

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996).

Chapter 31. Standards of Performance for New Stationary Sources

Subchapter A. General Provisions and Modifications

§3107. Address

All requests, reports, applications, submittals and other communications pursuant to this Subchapter shall be submitted in duplicate to the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Box 82135, Baton Rouge, LA 70884-2135, to the attention of the administrative authority.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:340 (May 1996).

Gus Von Bodungen
Assistant Secretary

9605#055

RULE

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

Point of Custody Transfer (LAC 33:III.3301)(AQ134)

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.3301.B (AQ134).

LAC 33:III.3301.B.*Point of Custody Transfer* is deleted from the state regulations as it is not part of the federal regulations. This action was requested by the regulated community and agreed to by the Department of Environmental Quality.

This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 31. Standards of Performance for New Stationary Sources

Subchapter K. Standards of Performance for Storage Vessels for Petroleum Liquids (Subpart K, Ka, and Kb)

§3301. Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984 (Subpart Kb)

[See Prior Text in A-B.*Petroleum*]

Petroleum Liquids—petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery.

Reid Vapor Pressure—the absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids, except liquified petroleum gases, as determined by ASTM D323-82.

[See Prior Text in B.*Storage Vessel-G.7*]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:263 (March 1991), amended LR 21:682 (July 1995), LR 22:341 (May 1996).

Gus Von Bodungen
Assistant Secretary

9605#056

RULE

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

**Reportable Quantity of VOCs Not Listed
(LAC 33:I.3931)(AQ135)**

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 Office of the Secretary regulations, LAC 33:I.3931 (AQ135).

LAC 33:I.3931 (Other VOCs not listed) is revised to read "Volatile Organic Compounds not otherwise listed." As written, the rule might have allowed an amount of VOC emissions greater than that which should be emitted.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 2. Notification Regulations

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

Pollutant	CAS Number ¹	RCRA ² Waste Number	Pounds
*** [See Prior Text in Acenaphthene - Osmium oxide OsO4 (T-4)]			
Osmium tetroxide	20816120	P087	1000
7-Oxabicyclo [2,2,1]heptane-2,3- dicarboxylic acid	145733	P088	1000
*** [See Prior Text in 1,2-Oxathiolane, 2,2,dioxide - Vinylidene chloride			
Volatile Organic Compounds not otherwise listed ⁴			5000
*** [See Prior Text in Warfarin and salts - K136]			

[See Prior Text in * - ³]

⁴ The combined emissions of all volatile organic compounds (VOCs), excluding any VOCs otherwise listed, shall be totaled to determine if a reportable quantity has been exceeded. VOC is defined in LAC 33:III.111 and exempt compounds are listed in LAC 33:III.2117.

[See Prior Text in @]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 30:2076(D), 30:2183(I), 30:2194(C) and 30:2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:943 (September 1995), LR 22:341 (May 1996).

Gus Von Bodungen
Assistant Secretary

9605#057

RULE

Department of Environmental Quality Office of the Secretary

Administrative Procedures - Confidential Information
(LAC 33:I.Chapter 5; 33:III.107 and 517; 33:V.319 and
1113; 33:VII.309; 33:IX.301, 309, 315 and 1507;
33:XV.324)(OS14)

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 LAC 33:I.Chapter 5; III.107.E, 517.F; V.319, 1113.D; VII.309; IX.301.N, 309.D, 315.F, 1507.A; XV.324.F-G (OS14).

The rule establishes a consistent set of procedures for departmental management of information submitted as confidential. R.S. 30:2030 (B) requires the department to adopt regulations for processing requests for confidentiality. The rule will improve existing rules by adding clarification, improving consistency, and consolidating existing programmatic (solid waste, hazardous waste, air quality and water quality) regulations into one conveniently located chapter.

This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 5. Confidential Information Regulations

§501. Scope

Department of Environmental Quality records and information obtained under the Louisiana Environmental Quality Act (hereinafter called "the Act"), or by any rule, regulation, order, license, registration, or permit term or condition adopted or issued thereunder, or by any investigation authorized thereby, shall be available to the public, unless confidentiality is requested by writing to the department's Office of Legal Affairs and Enforcement, Legal Division, and such information is determined by the administrative authority to require confidentiality. Such information may be classified as confidential by the administrative authority, unless otherwise provided by law or

regulation, if the secretary makes a written determination that confidentiality is necessary to:

1. prevent impairment of an ongoing investigation or prejudice to the final decision regarding a violation; or
2. protect trade secrets, proprietary secrets and information, and commercial or financial information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:342 (May 1996).

§503. Request for Confidentiality

A. Anyone outside the department requesting confidentiality shall provide to the administrative authority a written statement indicating the reasons for asserting confidentiality. This claim of confidentiality shall state:

1. the measures taken to guard against undesired disclosure of the information to others;
2. the extent to which the information has been disclosed to others and the precautions taken in connection therewith;
3. whether disclosure of the information would be likely to result in substantial harmful effects in the competitive market, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects; and
4. the period of time for which confidential treatment is desired.

B. Anyone outside the department submitting information to the administrative authority for which a confidentiality claim is asserted shall follow the procedures outlined below:

1. a cover sheet shall be attached to the information, which has been conspicuously labeled with the word "CONFIDENTIAL." Each page or any item (e.g., pictures, maps, video tapes, computer disks, etc.) that contains alleged confidential information shall also be clearly labeled;
2. to the maximum extent possible, confidential information shall be segregated to facilitate identification and handling. The confidential information shall be specifically referenced as appropriate in the nonconfidential document. Blacking out confidential portions of otherwise public documents is permissible, provided the blacked-out portions are clearly identified in both confidential and nonconfidential versions; and
3. in cases where confidential information cannot be reasonably extracted or separated from nonconfidential information, and when the information does not include information described in LAC 33:I.505.B, the whole document shall be confidential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:342 (May 1996).

§505. Agency Review of Confidential Information

A. Within 21 working days from the date of receipt of a request for confidentiality, the secretary shall issue a written notice of determination. Anyone outside the department will be notified by certified mail.

B. Specific categories of information that shall be denied confidentiality include:

1. air emission data;
2. any permit or portion of a permit issued to a source in accordance with LAC 33:III.507;
3. effluent and discharge data to surface waters and groundwaters;
4. location and identification of any buried waste;
5. name and address of any license, registration or permit applicant or permittee;
6. all NPDES, LPDES, and other water discharge permit applications or permits. Information required by LPDES application forms may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms; and
7. any other information required by the law or regulations to be disclosed or for which a claim of confidentiality is prohibited by law or regulation.

C. The notice of determination shall become final and not subject to further administrative review unless, no later than 30 days after receipt of this document, the submitter files a written request for a hearing.

D. Information submitted under a claim of confidentiality shall be held as confidential until a final determination has been made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:342 (May 1996).

§507. Authorized Agent Accessibility

A. In the event a claim of confidentiality is granted, such confidentiality shall not apply to the necessary use of the information by duly authorized officers or employees of the state or federal government in carrying out their responsibilities under the Act or applicable federal law. Any officer or employee of the state or federal government who seeks access to such information must be duly authorized by the administrative authority. The administrative authority shall make a determination to grant such authorization based on a written request that shall specify the requestor's name, affiliation, and the need for access to the information based on the Act or applicable federal law. Department employees are exempt from requesting authorization in writing; however, they must demonstrate a need for access to confidential information prior to seeking administrative authority approval.

B. Any employee of the department or any former employee of the department or any authorized contractor acting as a representative of the secretary of the department who is convicted of intentional disclosure or conspiracy to disclose trade secrets or other information that has been determined to be confidential is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$1,000, imprisonment for up to one year, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030 and R.S. 30:2074

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:343 (May 1996).

§508. Maintenance of Confidential Information

A. Confidential information shall be maintained in a locked file separate from nonconfidential information. The file shall be labeled "CONFIDENTIAL," with access appropriately controlled.

B. Whenever an authorized person gains access to a confidential file, he shall sign an access log, which indicates his understanding of the confidential status and his responsibility to protect the information from being disclosed to the public. The person will also indicate in the access log which file was removed, the date and time the file was removed, the affiliation of the person if not with the Department of Environmental Quality, and the time and date the file was returned.

C. Except for members of the department staff, authorized persons shall review a confidential file in the presence of a department staff member. Confidential information shall be removed from the file no longer than is strictly necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:343 (May 1996).

§509. Release of Confidential Information

A. The administrative authority shall remove confidential information from its files and return it to the submitter if such information is no longer necessary or required after three years for the purposes of the Act, these regulations, or any order or under the terms and conditions of any license, registration, or permit.

B. Files declared confidential as part of an investigation shall be returned to the public record files upon conclusion of the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:343 (May 1996).

Part III. Air

Chapter 1. General Provisions

§107. Investigations—Authority

Pursuant to the provisions of R.S. 30:2011, the administrative authority shall make such investigations as are necessary and proper to carry out the purposes of the Louisiana Environmental Quality Act and in connection therewith:

* * *

[See prior text in A - D]

E. Confidentiality of Information. Provisions for confidential information may be found in LAC 33:I.Chapter 5.

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 the Secretary, LR 22:343 (May 1996).

Chapter 5. Permit Procedures

§517. Permit Applications and Submittal of Information

* * *

[See prior text in A - E.8]

F. Confidential Information. Provisions for confidential information may be found in LAC 33:I.Chapter 5.

* * *

[See prior text in G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:1375 (December 1994), amended by the Department of Environmental Quality, Office of the Secretary, LR 22:344 (May 1996).

Part V. Hazardous Waste and Hazardous Material

**Subpart 1. Department of Environmental Quality-
Hazardous Waste**

**Chapter 3. General Conditions for Treatment,
Storage, and Disposal Facility Permits**

§319. Confidentiality

Provisions for confidential information may be found in LAC 33:I.Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:84 (February 1987), amended by the Department of Environmental Quality, Office of the Secretary, LR 22:344 (May 1996).

Chapter 11. Generators

§1113. Exports of Hazardous Waste

* * *

[See prior text in A - D.4]

5. The administrative authority will provide a complete notification to the receiving country and any transit countries. A notification is complete when the administrative authority receives a notification which the administrative authority determines satisfies the requirements of LAC 33:V.1113.D.1. Where a claim of confidentiality is asserted with respect to any notification information required by LAC 33:V.1113.D.1, the administrative authority may find the notification not complete until any such claim is resolved in accordance with LAC 33:I.Chapter 5.

* * *

[See prior text in D.6 - H.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Department of Environmental Quality, Office of the Secretary, LR 22:344 (May 1996).

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

**Chapter 3. Scope and Mandatory Provisions of the
Program**

§309. Confidentiality

Provisions for confidential information may be found in LAC 33:I.Chapter 5.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Department of Environmental Quality, Office of the Secretary, LR 22:344 (May 1996).

Part IX. Water Quality Regulations

Chapter 3. Permits

§301. Scope

* * *

[See prior text in A - M.2]

N. Confidentiality of Information. Provisions for confidential information may be found in LAC 33:I.Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985), amended by the Department of Environmental Quality, Office of the Secretary, LR 22:344 (May 1996).

§309. Renewal and Termination

* * *

[See prior text in A - C]

D. During all renewal or termination proceedings the entire application and/or permit is open for comment in a public hearing, subject to confidentiality in accordance with LAC 33:I.Chapter 5.

* * *

[See prior text in E - H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985), amended by the Department of Environmental Quality, Office of the Secretary, LR 22:344 (May 1996).

§315. Public Information

* * *

[See prior text in A - E.1.b]

F. All recorded information (completed permit application forms, fact sheets, draft permits or any public document) not classified as confidential information in accordance with LAC 33:I.Chapter 5 will be made available to the public for inspection and copying pursuant to the following conditions:

1. during normal office hours;
2. under the observation and supervision of a member of the staff of the Office of Water Resources;
3. copies of compiled records and information will be made available within a reasonable amount of time upon written request at a cost in accordance with established department policy; and
4. no recorded information shall be removed from the office, except as provided herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985), amended by the Department of Environmental Quality, Office of the Secretary, LR 22:344 (May 1996).

Chapter 15. Water Quality Certification Procedures
§1507. Procedures for Issuance of Water Quality Certification

* * *

[See prior text in A - A.6]

7. Confidentiality of Information. Any information submitted by the applicant, as required by an application for certification, and declared as confidential by the applicant shall be handled in accordance with LAC 33:I.Chapter 5.

* * *

[See prior text in A.8 - H.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 10:496 (July 1984), amended by the Department of Environmental Quality, Office of the Secretary, LR 22:345 (May 1996).

Part XV. Radiation Protection
Chapter 3. Licensing of Radioactive Material
Subchapter D. Specific Licenses
§324. Filing Application for Specific Licenses

* * *

[See prior text in A - E]

F. Applications and documents submitted to the division shall be available for public inspection unless the administrative authority makes a written determination of confidentiality in accordance with LAC 33:I.Chapter 5.

G. If the department determines that any material should not be afforded confidentiality, the division shall issue a written denial of the request to the requestor in accordance with LAC 33:I.Chapter 5.

* * *

[See prior text in H - K]

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation, Radiation Protection Division, LR 18:34 (January 1992), amended LR 20:179 (February 1994), amended by the Department of Environmental Quality, Office of the Secretary, LR 22:345 (May 1996).

J. Dale Givens
Secretary

9605#054

RULE

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

Resolution of Controversies (LAC 34:III.511)

The Division of Administration, Office of Facility Planning and Control, in accordance with the provisions of R.S. 49:950

et seq., the Administrative Procedure Act, and R.S. 39:1581, amended LAC 34:III.511, to bring it into conformity with R.S. 39:1671, as follows:

Title 34
GOVERNMENT CONTRACTS,
PROCUREMENT AND PROPERTY CONTROL
Part III. Facility Planning and Control
Chapter 5. Rental and Lease Procedure
§511. Resolution of Controversies

A. Right to Protest. Any prospective lessor who is aggrieved in connection with the solicitation or award of a contract may protest to Facility Planning and Control. Protests with respect to a solicitation shall be submitted in writing no later than 10 days prior to the opening of bids. If a person protests a solicitation, an award cannot be made until said protest is resolved. Protests with respect to the award of a contract shall be submitted in writing within 14 days after contract award. Said protest shall state fully and in particular, the reason for protest if a protest is made with respect to the award of a contract. Work on the contract cannot be commenced until it is resolved administratively.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 11:946 (October 1985), amended LR 22:345 (May 1996).

Roger Magendie
Director

9605#014

RULE

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

Selection Procedures (LAC 4:VII.341)

Pursuant to the provisions of R.S. 38:2310 et seq. as amended, the Engineers Selection Board, hereinafter referred to as the board, has amended such rules and procedures as it deemed necessary to carry out the provision of the said statutes. These rules are established by the board, and are subject to change by said board, in accordance with the Administrative Procedure Act.

Title 4
ADMINISTRATION
Part VII. Governor's Office
Chapter 3. Engineers Selection Board
§341. Selection Procedures

Selection procedure is as follows:

- 1-4. ...
5. Select firm from the two firms with the most votes on a "one" vote basis.
6. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 6:12 (January 1980), amended LR 9:551 (August 1983), LR 11:1077 (November 1985), LR 17:661 (July 1991), LR 22:345 (May 1996).

Roger Magendie
Director

9605#015

RULE

Department of Health and Hospitals Board of Examiners for Speech-Language Pathology and Audiology

Rules Repeal/Repromulgation
(LAC 46:LXXV.Chapters 1-7)

The Louisiana Board of Examiners for Speech-Language Pathology and Audiology hereby repeals and repromulgates its rules and regulations, to comply with R.S. 37:2650 et seq.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXV. Speech Pathology and Audiology

Chapter 1. General Rules

§103. Definitions

As used in these regulations, the following terms and phrases, which have not already been defined in Title 37, Louisiana Revised Statutes, Section 2651-2666, shall have the meanings specified.

Assistant Licensee—an individual who meets the qualifications established by LSA R.S. 37:2659(D)(1),(2), and works under the direct supervision of a licensed speech-language pathologist and performs only those duties specified in §107.

Direct Supervision—on-site, in-view observation and guidance during performance of a clinical activity which includes but cannot be limited to the utilization of alternative methods to obtain knowledge of a supervisee's clinical work.

Full-time Employment/Experience—a minimum of 30 clock hours per week.

Graduate Training Clinical Practicum Hours—a combination of undergraduate and graduate clinical practicum hours that culminate with a graduate degree or its equivalent.

Hearing Screening—consists of pure-tone air conduction screening and screening tympanometry for the purpose of the initial identification and/or referral of individuals with suspected hearing problems and/or middle ear pathology.

On-Site, In-View Observation—the supervisor observing the licensee engaging in a specified clinical activity with his/her patient/client. The supervisor shall accomplish this task either by being physically present in the room or through the use of a live video monitor.

Part-time Employment/Experience—less than 30 clock hours per week.

Provisional Assistant Licensee—an individual who meets

the qualifications established in LSA R.S. 37: 2659(E) and works under the direct supervision of a licensed speech-language pathologist and performs only those duties specified in §107. This person has completed a minimum of 100 of 225 supervised clinical practicum hours and is working to complete the remaining hours on-the-job and/or through a regionally accredited educational institution or its cooperating programs.

Supervised On-the-Job Training—only those hours which have been supervised on-site, in-view and documented on the form provided by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 14:705 (October 1988), amended LR 22:346 (May 1996).

§105. Designations

A. Individuals licensed by the Louisiana Board of Examiners for Speech-Language Pathology and Audiology may use the following designations when listing their credentials:

1. L-SLP #0000 - Speech-Language Pathologist;
2. L-AUD #0000 - Audiologist;
3. PL-AUD #0000 - Provisional Audiologist;
4. PL-SLP #0000 - Provisional Speech-Language

Pathologist;

5. R-SLP #0000 - Restricted Speech-Language Pathologist.

B. Speech-Language Pathology Assistants and Provisional Speech-Language Pathology Assistants shall list their full license title when listing their credentials, e.g., B.A., SLP Assistant.

C. When listing credentials, licensees should sequentially list their name, educational designation and license designation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 22:346 (May 1996).

§107. Qualifications for Licensure

A. Coursework Requirements: Audiology License and Provisional Audiology License. The following coursework requirements apply to applicants who began a *MASTER'S PROGRAM AFTER JANUARY 1, 1994*.

1. The applicant shall submit transcripts from one or more regionally accredited colleges or universities evidencing completion of at least 75 semester hours of coursework which constitutes a well-integrated program that includes at least:

- a. six semester credit hours in biological/physical sciences and mathematics;
- b. six semester credit hours in behavioral and/or social sciences;
- c. 15 semester credit hours in basic human communication processes to include the anatomic and physiologic bases, the physical and psychophysical bases, and the linguistic and psycholinguistic aspects;

2.a. 36 semester credit hours of professional coursework in audiology:

- i. 6 in hearing disorders and hearing evaluation;
- ii. 6 in habilitative/rehabilitative procedures;
- iii. 6 semester credit hours in speech-language pathology;

b. 30 of the 36 semester credit hours shall be in courses for which graduate credit was received; 21 of the 30 semester hours shall be in the area of audiology;

c. a maximum of 6 academic semester credit hours associated with clinical practicum may be counted toward the minimum of 30 semester credit hours of professional coursework, but those hours may not be used to satisfy the minimum of 6 semester credit hours in hearing disorders/evaluation, 6 hours in habilitative/rehabilitative procedures, or 6 hours in speech-language pathology, or the 21 graduate credits in the professional area for which the license is sought.

B. The following coursework requirements apply to applicants who began a *MASTER'S PROGRAM PRIOR TO JANUARY 1, 1994*:

1. The applicant shall submit transcripts from one or more regionally accredited colleges or universities evidencing completion of at least 60 semester hours of coursework which constitutes a well-integrated program that includes at least 12 semester credit hours in basic human communication processes to include the anatomic and physiologic bases, the physical and psychophysical bases, and the linguistic and psycholinguistic aspects;

2.a. 30 semester credit hours of professional coursework in audiology*:

- i. 6 in hearing disorders and hearing evaluation;
- ii. 6 in habilitative/rehabilitative procedures;
- iii. 6 semester credit hours in speech-language pathology;

b. 21 of the 30 semester credit hours shall be in courses for which graduate credit was received;

c. A maximum of 6 academic semester credit hours associated with clinical practicum may be counted toward the minimum of 30 semester credit hours of professional coursework, but those hours may not be used to satisfy the minimum of 6 semester credit hours in hearing disorders/evaluation, 6 hours in habilitative/rehabilitative procedures, or 6 hours in speech-language pathology, or the 21 graduate credits in the professional area for which the license is sought.

*If seeking licensure in both speech-language pathology and audiology, at least 15 graduate level semester hours in each area are required.

C. Coursework Requirements: Speech-Language Pathology License and Provisional Speech-Language Pathology License. The following coursework requirements apply to applicants who began a *MASTER'S PROGRAM AFTER JANUARY 1, 1994*.

1. The applicant shall submit transcripts from one or more regionally accredited colleges or universities evidencing completion of at least 75 semester hours of coursework which constitutes a well-integrated program that includes at least:

- a. 6 semester credit hours in biological/physical sciences and mathematics;
- b. 6 semester credit hours in behavioral and/or social sciences;

c. 15 semester credit hours in basic human communication processes to include the anatomic and physiologic bases, the physical and psychophysical bases, and the linguistic and psycholinguistic aspects;

2.a. 36 semester credit hours of professional coursework in speech-language pathology:

- i. 6 in speech disorders;
- ii. 6 in language disorders;
- iii. 6 in audiology;

b. 30 of the 36 semester credit hours shall be in courses for which graduate credit was received; 21 of the 30 semester hours shall be in the area of speech-language pathology;

c. a maximum of 6 academic semester credit hours associated with clinical practicum may be counted toward the minimum of 30 semester credit hours of professional coursework, but those hours may not be used to satisfy the minimum of 6 semester credit hours in speech disorders, 6 hours in language disorders, or 6 hours in audiology, or the 21 graduate credits in the professional area for which the license is sought.

D. The following coursework requirements apply to applicants who began a *MASTER'S PROGRAM PRIOR TO JANUARY 1, 1994*:

1. The applicant shall submit transcripts from one or more regionally accredited colleges or universities evidencing completion of at least 60 semester hours of coursework which constitutes a well-integrated program that includes at least 12 semester credit hours in basic human communication processes to include the anatomic and physiologic bases, the physical and psychophysical bases, and the linguistic and psycholinguistic aspects;

2.a. 30 semester credit hours of professional coursework in speech-language pathology*:

- i. 6 in speech disorders;
- ii. 6 in language disorders;
- iii. 6 in audiology;

b. 21 of the 30 semester credit hours shall be in courses for which graduate credit was received;

c. A maximum of 6 academic semester credit hours associated with clinical practicum may be counted toward the minimum of 30 semester credit hours of professional coursework, but those hours may not be used to satisfy the minimum of 6 semester credit hours in speech disorders, 6 hours in language disorders, or 6 hours in audiology, or the 21 graduate credits in the professional area for which the license is sought.

*If seeking licensure in both speech-language pathology and audiology, at least 15 graduate level semester hours in each area are required.

E. Coursework Requirements: Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant

1. A bachelor's degree in speech-language pathology from a regionally accredited institution fulfills the coursework requirements of the board.

2. If the bachelor's degree is not in speech-language pathology, the degree program should include the following core coursework. A total of 39 hours shall be obtained in the

following areas. Thirty-six of the hours are required and are followed by an *.

3. Basic Requirements:

- a. Educational and/or Psychological Tests and Measurements: 3 semester hours*;
- b. Psychology/Sociology/Multicultural Studies (some combination): 6 semester hours*.

4. Basic Professional Courses:

- a. American Phonetics: 3 semester hours*;
- b. Anatomy and Physiology of the Speech and Hearing Mechanism: 3 semester hours*;
- c. Normal Speech and Language Acquisition (to include Cultural and Regional Variations): 3 semester hours*;
- d. Clinical Methods and Procedures in Speech-Language-Hearing Therapy: 3 semester hours*.

5. Speech and Language Disorders:

- a. Survey of Exceptionalities/Introduction to Communication Disorders: 3 semester hours*;
- b. Articulation Disorders: 3 semester hours*;
- c. Language Disorders: 3 semester hours*;
- d. Disorders of Rhythm (to include Stuttering): 3 semester hours;
- e. Voice Disorders: 3 semester hours;
- f. Diagnostic Processes in Communication Disorders: 3 semester hours;
- g. Clinical Practicum in Communication Disorders: 3 semester hours*.

(additional credit may be obtained as an elective)

6. Hearing and Hearing Disorders:

- a. Introduction to Audiology: 3 semester hours*;
- b. Aural Rehabilitation: 3 semester hours;
- c. Introduction to Education of the Hearing Impaired: 3 semester hours.

F. Master's Equivalency Requirements: Speech-Language Pathology, Provisional Speech-Language Pathology, Audiology or Provisional Audiology License. Individuals who do not possess a master's degree in either speech-language pathology or audiology but wish to obtain a license through the equivalency process shall meet the coursework, practicum and examination requirements for the area in which licensure is sought as defined in the board's rules entitled Coursework Requirements: Audiology License and Provisional Audiology License; Coursework Requirements: Speech-Language Pathology License and Provisional Speech-Language Pathology License; Clinical Practicum Hour Requirements and Examination Requirement.

G. Clinical Practicum Hour Requirements. An individual shall submit official documentation from a regionally accredited educational institution or its cooperating programs, verifying supervised clinical practicum hours as follows:

1. Speech-Language Pathology and Provisional Speech-Language Pathology Licenses:

- a. 300 clinical practicum hours if master's program began prior to January 1, 1994;
- b. 375 clinical practicum hours if master's program began after January 1, 1994.

2. Audiology and Provisional Audiology Licenses:

- a. 300 clinical practicum hours if master's program began prior to January 1, 1994;

b. 375 clinical practicum hours if master's program began after January 1, 1994.

3. Speech-Language Pathology Assistant License:

a. 225 clinical practicum hours are required, the first 100 of which shall have been obtained through a regionally accredited educational institution or its cooperating programs. Of the 100 hours obtained through a regionally accredited educational institution, 75 shall be obtained with direct patient/client contact, and the remaining 25 hours may be obtained through observation of testing and therapy. It is recommended that the direct patient/client contact hours be obtained in at least two practicum sites with one site being a public school setting. The first 75 hours of direct patient/client contact shall be obtained in the following categories:

- i. minimum of 20 hours in articulation disorders;
- ii. minimum of 20 hours in language disorders;
- iii. the remaining 35 hours may be obtained in the areas of articulation disorders, language disorders or distributed among other disorders;

b. The remaining 125 hours may have been obtained on-the-job and/or through a regionally accredited educational institution or its cooperating programs.

4. Provisional Speech-Language Pathology Assistant License:

a. A minimum of 100 clinical practicum hours which have been obtained through a regionally accredited educational institution or its cooperating programs as defined in §107.G.3 are required.

b. The additional 125 hours required to upgrade to the Speech-Language Pathology Assistant License shall be obtained within three years of the date of issuance of the provisional assistant license and may be obtained by completing the remaining hours on-the-job and/or through a regionally accredited educational institution or its cooperating programs. Supervised on-the-job training which counts toward upgrading the license status will only be accepted from the date that the application for license is acknowledged to have been received by the board.

H. Examination Requirement: Speech-Language Pathology License, Provisional Speech-Language Pathology License, Audiology License, Provisional Audiology License

1. The board recognizes only the Educational Testing Service's specialty area examinations for speech-language pathology and audiology as the licensure examination for speech-language pathology and/or audiology.

2. The passing score for the speech-language pathology area examination is a minimum score of 600.

3. The passing score for the audiology area examination is a minimum score of 600.

4. The examination requirement shall be waived upon request by any applicant who is currently certified by the State Board of Elementary and Secondary Education as a specialist of speech-language pathology and who is currently employed in a school setting.

I. Duties: Speech-Language Pathology Assistant License and Provisional Speech-Language Pathology Assistant License

1. All duties performed by the Assistant Speech-

Language Pathology Licensee or Provisional Speech-Language Pathology Assistant Licensee shall be supervised in accordance with the rules and regulations specified by the board. Caseload assignments shall be consistent with the knowledge base and training of the licensee for the performance of the following tasks:

- a. conduct speech-language screenings and assessments without interpretation, following specified protocols as approved by the supervising speech-language pathologist. All screening and assessment reports shall be co-signed and interpreted by the supervising speech-language pathologist;
 - b. perform hearing screenings limited to a pass/fail determination, for the purpose of initial identification of disorders, following specified protocols as approved by the supervising speech-language pathologist;
 - c. provide direct treatment which is within the level of training and experience as determined by the supervising speech-language pathologist to a caseload of patients/clients who demonstrate communication disorders. Supervision of treatment shall be in accordance with the rules and regulations specified by the board;
 - d. follow treatment plans or protocols as approved by the supervising speech-language pathologist. Documentation of the supervising speech-language pathologist's approval shall be kept on file prior to implementation of treatment plans or protocols;
 - e. document patient/client progress toward meeting established objectives as stated in the treatment plan, and report this information to the supervising speech-language pathologist;
 - f. schedule activities, prepare charts, records, graphs, or otherwise display data;
 - g. perform checks and maintenance of equipment;
 - h. participate with the supervising speech-language pathologist in parent conferences, case conferences, interdisciplinary team conferences, research projects, in-service training, and public relations programs, if the provisional assistant licensee has not completed the required 225 practicum hours;
 - i. participate in parent conferences, case conferences, interdisciplinary team conferences, research projects, in-service training, and public relations programs, provided the licensee has completed the 225 practicum hours.
2. Duties Outside the Scope of Practice of a Speech-Language Pathology Assistant or Provisional Speech-Language Pathology Assistant. The Speech-Language Pathology Assistant Licensee and Provisional Speech-Language Pathology Assistant shall not:
- a. perform clinical tasks without the knowledge and approval of the supervising speech-language pathologist;
 - b. interpret test results;
 - c. work with a communication or related disorder unless s/he has had sufficient coursework with appropriate supervised practicum in that area;
 - d. provide patient/client or family counseling;
 - e. select and/or discharge patients/clients for services without the approval of the supervising speech-language pathologist;

f. disclose clinical or confidential information either orally or in writing to anyone not designated by the supervising speech-language pathologist and without the authorization of the patient/client or their designee;

g. make referrals for additional services without the approval of the supervising speech-language pathologist.

J. Restricted License Qualifications

1. In order to reinstate a restricted license to practice speech-language pathology held prior to August 15, 1995, an applicant shall:

a. hold a bachelor's degree with a major in speech pathology, together with a current Type A B, or C teaching certificate issued by the State Board of Elementary and Secondary Education or their equivalent as determined by the State Board of Elementary and Secondary Education certifying the applicant as a specialist of speech, language and hearing; and

b. submit evidence of completion of his/her clock hours of supervised, direct clinical experience with persons having a variety of communication disorders. This experience shall be obtained through a training institution or its cooperating programs.

2. Restricted Licensees in Speech-Language Pathology are permitted to practice in Louisiana only while under the direct supervision of a Louisiana licensed Speech-Language Pathologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:346 (May 1996).

§109. Requirements to Upgrade License

A. The Provisional Speech-Language Pathology or Provisional Audiology licensee who has not passed the examination at the time of initial licensure shall submit the following to upgrade his/her license status:

1. an official copy of a passing score on the Educational Testing Service area examination;
2. verification of nine months of full-time post-graduate professional employment/experience or its part-time equivalent in the field the license is held;
3. proof of supervision (Form 100);
4. upgrade fee of \$25.

B. The Provisional Speech-Language Pathology or Provisional Audiology licensee who has not completed the nine months of postgraduate professional employment/experience at the time of initial licensure shall submit the following to upgrade his/her license status:

1. verification of nine months of full-time post-graduate professional employment/experience or its part-time equivalent in the field the license is held;
2. proof of supervision (Form 100);
3. upgrade fee of \$25.

C. The Provisional Speech-Language Pathology Assistant shall submit the following to upgrade his/her license status:

1. proof of 225 supervised clinical practicum hours shall be on file in the board's office;
2. upgrade fee of \$25.

D. The Restricted Speech-Language Pathology or

Restricted Audiology licensee who holds a master's degree or its equivalent in Speech-Language Pathology or Audiology shall submit the following documents to upgrade their license:

1. proof of nine months of post-graduate professional employment/experience or its part-time equivalent in the field in which the license is held;

2. proof of supervision (Form 100);

3. upgrade fee of \$25.

E. Restricted Speech-Language Pathology licensees who hold a bachelor's degree who wish to change their status to a Provisional Speech-Language Pathology License shall submit an application for license and meet the requirements of LSA R.S. 37:2659(B).

F. Speech-Language Pathology Assistant licensees who wish to change their status to a Provisional Speech-Language Pathology License shall submit an application for license and meet the requirements of LSA R.S. 37:2759(B).

G. Postgraduate professional employment/experience which counts toward upgrading the license status will only be accepted from the date that the licensee's application was acknowledged to have been received by the board.

H. Audiologists who hold an audiology license but are completing the coursework or practicum requirements for registration as a dispenser shall follow the supervision requirements as specified in §123, and shall submit the board's Form 100 at the time of renewal. The board's Form 100 shall be submitted to upgrade license status.

I. It is the responsibility of the licensee to submit the documents and make a written request for upgrade of his/her license status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 22:349 (May 1996).

§111. Fees

The board collects the following fees, which are non-refundable.

1. Initial Louisiana license for:

a. Speech-Language Pathologist \$100

b. Audiologist \$100

c. Audiologist to include hearing aid dispensing \$125

d. Provisional Speech-Language Pathologist \$100

e. Provisional Audiologist \$100

f. Provisional Audiologist to include hearing aid dispensing \$125

g. Speech-Language Pathology Assistant \$100

h. Provisional Speech-Language Pathology Assistant \$100

i. Dual License Fee \$200

j. Dual License Fee to include hearing aid dispensing \$225

(Payable only by certified check, cashier's check or money order.)

2. Renewal of license submitted on or before June 30, of each year for:

a. Speech-Language Pathologist \$50

b. Audiologist \$50

c. Audiologist to include hearing aid dispensing \$60

d. Provisional Speech-Language Pathologist \$50

e. Provisional Audiologist \$50

f. Provisional Audiologist to include hearing aid dispensing \$60

g. Speech-Language Pathology Assistant \$50

h. Provisional Speech-Language Pathology Assistant \$50

i. Dual License \$75

j. Dual License to include hearing aid dispensing \$85

3. Lapsed License Fee submitted between July 1 and July 31, of each year for:

a. Speech-Language Pathologist \$100

b. Audiologist \$100

c. Audiologist to include hearing aid dispensing \$120

d. Provisional Speech-Language Pathologist \$100

e. Provisional Audiologist \$100

f. Provisional Audiologist to include hearing aid dispensing \$120

g. Speech-Language Pathology Assistant \$100

h. Provisional Speech-Language Pathology Assistant \$100

i. Dual License \$150

j. Dual License to include hearing aid dispensing \$170

4. Lapsed License Fee submitted between August 1 and October 31, of each year for:

a. Speech-Language Pathologist \$200

b. Audiologist \$200

c. Audiologist to include hearing aid dispensing \$220

d. Provisional Speech-Language Pathologist \$200

e. Provisional Audiologist \$200

f. Provisional Audiologist to include hearing aid dispensing \$240

g. Speech-Language Pathology Assistant \$200

h. Provisional Speech-Language Pathology Assistant \$200

i. Dual License \$300

j. Dual License to include hearing aid dispensing \$340

5. Registration fee for audiologists to dispense hearing aids \$25

6. Upgrade of provisional speech-language pathologist, provisional audiologist, speech-language pathology assistant or provisional speech-language pathology assistant \$25

7. NSF or returned check \$25

8. Video rental: \$10 per tape for 2 weeks; \$20 for 2-tape set for two weeks

9. Mailing labels - all licensees \$75

10. Mailing labels - partial list: \$.03 per label plus postage and handling

11. Re-issuance of license certificate \$20

12. Address listing - all licensees \$25

13. Directory of all licensees \$25

14. Fax transmission \$3 for first page; \$1 each additional page

15. Publications to include law, rules, etc. \$3 each plus postage and handling

16. Brochures/Pamphlets \$.10 each plus postage and handling

17. Verification of license (written) \$5

18. Subpoena \$25 within EBR Parish; \$25 plus \$.24 per mile outside of EBR Parish

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:350 (May 1996).

§113. License Renewals

A. All licenses are renewed annually on June 30.

B. Initial licenses issued during the last quarter of the fiscal year, i.e., April, May, and June, will not be required to be renewed during that fiscal year. No continuing education hours will be required of the licensee for that period.

C. Licensees shall list on their renewal form the licensees and aides that they are supervising, i.e., provisional speech-language pathologists, provisional audiologists, restricted speech-language pathologists, restricted audiologists, speech-language pathology assistants, or provisional speech-language pathology assistants.

D. It is the licensee's continuing obligation to keep the board informed of his/her current mailing address.

E. Licensees shall participate in continuing professional education activities of at least 10 clock hours for each license period, July 1 through June 30, in accordance with §115.

F. Retired status is granted to speech-language pathologists and audiologists who are retired and do not practice speech-language pathology or audiology during the fiscal year, July 1 through June 30. These licensees shall complete the affidavit on the continuing education report and submit it at the time of licensure renewal. Retired licensees may retain their license by payment of the annual renewal fee. In order to resume the practice of speech-language pathology or audiology, retired licensees shall demonstrate completion of five clock hours of continuing education in the area of licensure for each year that retired status was maintained.

G. Delinquent Renewal

1. Delinquent requests for renewals will be accepted by the board through July 31, provided the Lapsed License Fee is paid in accordance with §111, and the continuing education summary form is submitted.

2. A licensee whose license is delinquent as of November 1, is required to submit a completed application, proof of continuing education, initial license fee and Lapsed License Fee in accordance with §111.A. and D and §115.

H. Conditional Renewal

1. Licensees who previously held a full, valid license which was obtained under the grandfather clause of Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, for a period not to exceed five years, shall be eligible for licensure renewal or reinstatement upon meeting the continuing education requirement and submitting the appropriate renewal fee in accordance with §111. If the license has lapsed for a period of more than five years, applicants shall reapply in accordance with the requirements enumerated in LSA R.S. 37:2651 et seq., as amended by Act 892 of the 1995 Regular Session of the

Louisiana Legislature.

2. Licensees who previously held a restricted license which was obtained under Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, shall be eligible for licensure renewal or reinstatement, upon meeting the continuing education requirement and submitting the appropriate renewal fee as required in accordance with §§111 and 115.

3. Licensees who allow their license to lapse for more than one year shall submit documentation of completion of five clock hours of continuing education in the area of licensure for each year that the license has lapsed in addition to meeting the license requirements enumerated in LSA R.S. 37:2650 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR14:707 (October 1988), amended LR 22:351 (May 1996).

§115. Continuing Education Requirements

A. Each licensee shall complete continuing professional education activities of at least 10 clock hours each license period, July 1 through June 30.

B. Of the 10 hours, five shall be in the area of licensure, and five may be in areas related to the professions of audiology and speech-language pathology.

C. Audiologists who register as dispensing audiologists shall insure that at least three of the total ten hours are in areas directly related to hearing aid dispensing, such as business/practice management, marketing, aural habilitation/rehabilitation, diagnostic assessment, characteristics of hearing aids and their application, etc.

D. Dual licensees shall complete 15 hours per year with a minimum of five hours in speech-language pathology and five hours in audiology; the remaining five may be in areas related to the professions of audiology and speech-language pathology.

E. There shall be no carry-over of continuing education hours from one year to the next.

F. In the case of extenuating circumstances, when the licensee does not fulfill the continuing education requirements, the licensee shall submit a written request for extension to the board for consideration.

G. Acceptable Continuing Education Sponsors and Activities

1. board-sponsored activities (maximum of 10 hours);
2. workshops in the area of communication disorders sponsored by individual professional practitioners and/or professional organizations such as American Audiological Association; American Speech-Language-Hearing Association; Louisiana Speech-Language-Hearing Association; Speech Pathologists and Audiologists in Louisiana Schools; Louisiana Society for Hearing Aid Specialists, etc. (maximum of 10 hours);

3. meetings of related professional organizations (maximum of five hours);

4. college courses in the area of licensure taken for credit or official audit (three semester hours or six quarter hours = 10 hours of continuing education);

5. teleconferences sponsored by universities, schools, clinics, state agencies or hospitals (maximum of five hours);

6. workshops and in-services that are university, school, clinic, hospital or state agency sponsored (maximum of five hours in a related area, maximum of 10 hours if in the area of licensure);

7. publication of articles in a refereed journal, five hours;

8. scientific or educational lectures to include presentations such as poster sessions given by the licensee (maximum of five hours).

H. Pre-Approval Policy

1. No pre-approval is required for any of the activities listed in Acceptable Continuing Education Sponsors and Activities.

2. The licensee shall request pre-approval (minimum of 60 days in advance) of individually sponsored activities, self-study activities, or other appropriate activities.

3. Self-study activities in the area of communication disorders:

a. audio or video tapes (maximum of five hours);

b. reading of journal articles that contain self-examination questions at the end. Articles shall be submitted for pre-approval (maximum of five hours).

4. Publication of diagnostic and/or therapeutic materials (maximum of five hours).

I. Recording of Continuing Education Activities

1. Licensees shall record all continuing education activities on a tracking sheet provided by the board. The tracking sheet will be included with renewal notices and will cover the period of July 1 through June 30.

2. The board may request, through official audit, verification of clock hours submitted, including information regarding content, certification, attendance, and receipts. A small percentage will be audited each year as a means of evaluating the effectiveness of the continuing education program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 22:351 (May 1996).

§117. Application Procedures

A. An application for a license to practice speech-language pathology and/or audiology in Louisiana shall be made on forms supplied by the board.

B. Official transcripts shall be sent to this board directly from the college or university from which the academic requirements were earned.

C. Documentation of supervised clinical practicum hours shall be submitted on university forms and signed by a clinical supervisor or director.

D. The initial license fee submitted to this board shall be paid by certified check, cashier's check or money order. Only renewal fees may be paid by personal check.

E. Documentation of nine months of postgraduate professional employment/experience shall be submitted directly to the board in writing on official agency letterhead.

F. Documentation of nine months of postgraduate professional employment/experience, a passing score on NTE,

and verification of supervised clinical practicum hours may be waived for individuals who submit verification that they hold the Certificate of Clinical Competence from the American Speech-Hearing-Language Association.

G. Postgraduate professional employment/experience which counts toward upgrading the license status, will only be accepted from the date that a licensee's application is acknowledged to have been received by the board.

H. While an application for a license is being considered by the board, the applicant may be employed as a speech-language pathologist, audiologist or speech-language pathology assistant for a period not longer than 60 days from the date that their application is acknowledged to have been received by the board. In no event may the applicant be employed as a speech-language pathologist, audiologist or speech-language pathology assistant after the application has been denied.

I. An applicant may be granted only one 60-day period to work while his/her application is being processed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 22:352 (May 1996).

§119. Supervision Requirements for Restricted License, Provisional Speech-Language Pathology License and Provisional Audiology License

A. Restricted Licensees, Provisional Speech-Language Pathology Licensees and Provisional Audiology Licensees are required to undergo direct supervision by a licensed speech-language pathologist or audiologist, licensed in the area in accordance with LSA R.S. 37:2659(A). An individual may not be supervised by a provisional licensee, restricted licensee, or assistant licensee.

B. The direct supervision of the licensee, whether employed full-time or part-time, shall include 12 monitoring activities annually at least four of which shall be on-site, in-view observations divided between the areas of diagnostics and management. Alternative methods may include conferences, audio and videotape recordings, review of written records, staffings and discussions with other persons who have participated in the licensee's training.

C. Documentation of supervision shall be submitted annually at the time of license renewal on Form 100 provided by the board.

1. Licensees employed in the public schools shall submit Form 100 within 10 days after the end of the school year.

2. All licensees shall submit Form 100 no later than July 10 of each year.

3. All costs of supervision shall be borne by the licensee or his/her employer, but in no event will those costs be borne by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996).

§121. Supervision Requirements for Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant

A. The supervision requirements specified in these guidelines are MINIMUM requirements. It is the responsibility of the speech-language pathologist to design and provide a supervision system that protects patient/client care and maintains the highest possible standards of quality.

B. Treatment for the patient/client served remains the responsibility of the supervisor. Therefore, the level of supervision required is considered the minimum level necessary for the supervising speech-language pathologist to maintain direct contact with the patient/client.

C. Supervision Requirements for the Speech-Language Pathology Assistant:

1. A minimum of one clock hour of on-site, in-view supervision shall be completed each week for each licensee;

2. A minimum of one clock hour of alternative supervision methods shall be completed each week for each licensee. These methods should include, but are not limited to:

- a. specifying protocols for speech-language screenings and assessments conducted by the assistant licensee;
- b. specifying protocols for hearing screenings conducted by the assistant licensee;
- c. approving treatment plans or protocols and documenting approval;
- d. monitoring patient/client progress toward meeting established objectives;
- e. monitoring, scheduling, charting and data collection;
- f. directing maintenance of equipment;
- g. directing research projects, in-service training and public relations programs;
- h. conducting telephone conferences;

3. Speech-Language Pathology Assistant Full-Time and Part-time Supervision Requirements:

HOURS WORKED	REQUIRED SUPERVISION ON-SITE, IN-VIEW	REQUIRED SUPERVISION ALTERNATIVE METHOD
21-40 hours	1 hr/week	1 hr/week
20 hrs or less	1 hr/every 2 weeks	1 hr/every 2 weeks

4. Assistant licensees shall be supervised only by a speech-language pathologist licensed under the provisions of LSA R.S. 37:2659(A). An individual may not be supervised by a provisional licensee or restricted licensee;

5. Although more than one speech-language pathologist may provide supervision of an assistant licensee and provisional assistant licensee, *at no time* may a licensed speech-language pathologist supervise or be listed as a supervisor for more than three assistant or provisional assistant licensees. When multiple supervisors are used, the supervisors are encouraged to coordinate and communicate with each other;

6. Documentation of supervision shall be submitted annually at the time of license renewal on Form 200 provided by the board;

7. The supervising speech-language pathologist shall be readily available for consultation with the assistant licensee. This includes personal contact, telephone, pager, or other

means of communication;

D. Supervision Requirements for the Provisional Speech-Language Pathology Assistant:

1. A minimum of three clock hours of on-site, in-view supervision shall be completed each week for each licensee;

2. A minimum of two clock hours of alternative supervision methods shall be completed each week for each licensee. These methods should include, but are not limited to:

- a. specifying protocols for speech-language screenings and assessments conducted by the assistant licensee;
- b. specifying protocols for hearing screenings conducted by the assistant licensee;
- c. approving treatment plans or protocols and documenting approval;
- d. monitoring patient/client progress toward meeting established objectives;
- e. monitoring scheduling, charting and data collection;
- f. directing maintenance of equipment;
- g. directing research projects, in-service training and public relations programs;
- h. conducting telephone conferences.

3. Provisional Speech-Language Pathology Assistant Full-Time and Part-Time Supervision Requirement:

HOURS WORKED	REQUIRED SUPERVISION ON-SITE, IN-VIEW	REQUIRED SUPERVISION ALTERNATIVE METHOD
21-40 hours	3 hrs/week	2 hrs/week
20 hrs or less	1½ hr/week	1 hr/week

4. Provisional assistant licensees shall be supervised by only a speech-language pathologist licensed under the provisions of LSA R.S. 37:2659(A). An individual may not be supervised by a provisional licensee or a restricted licensee;

5. Although more than one speech-language pathologist may provide supervision of an assistant licensee and provisional assistant licensee, *at no time* may a licensed speech-language pathologist supervise or be listed as a supervisor for more than three assistant or provisional assistant licensees. When multiple supervisors are used, the supervisors are encouraged to coordinate and communicate with each other;

6. Documentation of supervision shall be submitted annually at the time of license renewal on Form 300 provided by the board;

7. The supervising speech-language pathologist shall be readily available for consultation with the provisional assistant licensee. This includes personal contact, telephone, pager, or other means of communication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:353 (May 1996).

§123. Hearing Aid Dispensing

A. Audiologists who dispense hearing aids shall meet the coursework and practicum requirements for dispensing as specified in LSA R.S. 37:2650 et seq., and shall register their

intent to do so at the time of each license renewal.

1. Dispensing audiologists shall pay an initial registration fee of \$25 and an annual renewal fee of \$10 in addition to the fees charged for licensure renewal.

2. Dispensing audiologists shall affix an annual registration seal to the displayed audiology license.

B. Audiologists who hold a Provisional Audiology License shall be supervised by a licensed, registered dispensing audiologist while completing the postgraduate professional employment/experience requirements for full licensure.

C. Audiologists who hold an audiology license but are completing the coursework or practicum requirements for registration as a dispenser shall follow the supervision requirements as specified in §119 and shall submit the board's Form 100 at the time of renewal. The board's Form 100 shall be submitted to upgrade the license status.

D. Audiologists who dispense hearing aids shall maintain annual calibration records on audiometric equipment.

E. Audiologists who dispense hearing aids shall meet the minimum continuing education requirements for license renewal with at least three of the required 10 hours in areas specifically related to hearing aids and/or the dispensing of hearing aids.

F. Audiologists who dispense hearing aids shall comply with the following guidelines:

1. Audiologists shall conduct a pre-purchase evaluation that includes:

- a. a case history;
- b. an otoscopic examination;
- c. a basic audiological test battery, including:
 - i. pure tone air and bone conduction testing;
 - ii. speech reception threshold;
 - iii. word recognition testing;
 - iv. appropriate tolerance testing; and
 - v. middle ear measurements when indicated.

2. Audiologists shall provide the consumer with a minimum 30-day trial period on all new hearing aids purchased;

3. Audiologists shall inform the consumer of the total cost of the hearing aid, including any fees for returning the aid at the end of the trial period;

4. Audiologists shall conduct a post fitting evaluation that includes functional gain measurements and/or real ear measurements unless physical conditions prohibit accomplishment of these procedures;

5.a. Audiologists who engage in the fitting or selling of hearing aids shall deliver to each person supplied with a hearing aid, a bill of sale which shall contain the dispenser's signature, address and license number, together with a description of the make, model and serial number of the hearing aid and the amount charged. The bill of sale shall also indicate whether the hearing aid is new, used, or reconditioned.

b. Audiologists who engage in the fitting of hearing aids shall deliver to each person supplied with a hearing aid, a document which shall contain the dispenser's signature, address and license number, together with a description of the make, model and serial number of the hearing aid. The

document shall also indicate whether the hearing aid is new, used or reconditioned.

G. Audiologists who meet the qualifications for licensure as an audiologist and who were exempt under LSA-R.S. 37:2464.A. as part of their employment with a state health agency may register as dispensing audiologists by presenting proof of employment and dispensing experience in that job setting.

H. Audiologists who meet the qualifications for licensure as an audiologist but lack the coursework and practicum requirements necessary for registration as a dispenser may fulfill the requirements by completing nine months of postgraduate professional employment/experience under the supervision of a licensed dispensing audiologist, and by proof of the successful completion of a study course by the National Institute for Hearing Instruments Studies, or its equivalent. Equivalency for National Institute for Hearing Instruments Studies is defined as:

1. an individualized program of study that may include:
 - a. hearing aid fitting courses sponsored by hearing aid manufacturers;
 - b. university programs; or
 - c. programs of independent study;
2. any individualized program of study shall be submitted to the board a minimum of 60-days in advance for pre-approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 22:353 (May 1996).

§125. Disciplinary Actions

This board may refuse to issue, may suspend or revoke a license for the practice of speech-language pathology or audiology or otherwise discipline an applicant or licensee, upon a finding that the applicant or licensee has violated any provisions of LSA R.S. 37:2650 et seq., or any of the rules or regulations promulgated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:354 (May 1996).

§127. Licensure by Reciprocity

The board may waive the examination for applicants who present proof of current licensure in another state with standards equivalent to those of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:354 (May 1996).

§129. Additional Requirements for Foreign Graduates/ Speakers of English as a Second Language

A. Any document required to be submitted to this board with an application for a license shall be in the English language, or accompanied by a certified translation thereof into the English language.

B. As a condition of the board's consideration of the

license application of a graduate of a foreign college or university, the applicant shall provide the board with an evaluation of the applicant's transcript from an approved credentials evaluation agency. A list of approved agencies, and their addresses, may be obtained from the board.

C. Because the essence of the practice of speech-language pathology and audiology is communication, an applicant whose primary language is not English shall submit a passing score on a nationally recognized English proficiency examination, and make a personal appearance before the board or its designees before a license may be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:354 (May 1996).

Chapter 3. Aides

§301. Qualifications and Duties

A. Speech-language pathologists and audiologists are legally, ethically, and morally responsible for the services provided by aides working under their direction.

B. Requirements for the use of aides follow:

1. A licensed speech-language pathologist or audiologist may utilize an aide who meets the following qualifications. The aide shall:

- a. be of good moral character;
- b. be at least 18 years old;
- c. possess appropriate communication skills;
- d. have a high school diploma or G.E.D.

2. The supervising speech-language pathologist or audiologist is responsible for determining that the aide is qualified and prepared for the duties which s/he will be assigned. It is recommended that the aide be afforded continuing education opportunities. Appropriate areas of training may include:

- a. normal processes in speech, language and hearing;
- b. disorders of speech, language and hearing;
- c. record-keeping and data compilation;
- d. utilization of equipment and materials;
- e. professional ethics and their application to the aide's duties.

C. Supervision

1. The licensed speech-language pathologist or audiologist shall provide on-site, in-view supervision 25 percent of the patient/client contact time during the initial year of the aide's employment.

2. The on-site, in-view supervision in subsequent years shall be established by the supervising speech-language pathologist or audiologist on an individual basis but shall be no less than 10 percent of patient/client contact time.

3. The supervising speech-language pathologist or audiologist shall be readily available for consultation with the aide at all times.

4. Documentation of on-site, in-view supervision shall be maintained by the supervising speech-language pathologist or audiologist and shall be submitted to the board upon request.

5. The supervising speech-language pathologist or audiologist shall report to the board at the time of licensure

renewal, the names and employment locations of aides.

D. The aide may engage in activities limited to those that are planned and directed by the supervising speech-language pathologist or audiologist. Providing that the preparation, training, and supervision are appropriate, the following tasks may be assigned to aides:

1. setting up room and equipment;
2. clearing room and storing equipment;
3. preparing materials (such as making copies, typing forms) for use by the speech-language pathologist and/or audiologist;
4. checking equipment to determine if the equipment is performing adequately;
5. transporting patients/clients to and from sessions;
6. assisting with field trips and other communication stimulation situations;
7. performing hearing screenings limited to pure-tone air conduction screening and screening tympanometry;
8. recording, charting, graphing, or otherwise displaying objective data relative to the patient's/client's performance.

E. Only the speech-language pathologist or audiologist shall exercise independent judgment in the provision of professional services. Specifically, the speech-language pathologist or audiologist may not delegate any of the following to the aide:

1. speech-language screening;
2. evaluation, diagnosis, or therapy with individuals with speech, language or hearing disorders;
3. interpretation or discussion of confidential information despite the fact that this information may have been requested by the patient/client, parent or referring agency;
4. performance of any procedure for which the aide has not been trained.

F. Exemption. Aides employed on or before the effective date of these rules may continue to operate under the provisions of Chapter 3, §§301-305 of the Louisiana Register 16:409 (May 1990) of the Louisiana Board of Examiners for Speech Pathology and Audiology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 16:409 (May 1990), amended LR 22:355 (May 1996).

§303. Requirements of Speech-Language Pathologists/Audiologists in Monitoring Aides, Assistants and Helpers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 16:410 (May 1990), repealed LR 22:355 (May 1996).

§305. Services of Aides, Assistants or Helpers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health

and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 16:410 (May 1990), repealed LR 22:355 (May 1996).

Chapter 5. Procedural Rules

§501. Investigation of Complaints

A. The board is authorized to receive complaints against licensees, applicants, or other persons engaging in practices which violate or are alleged to violate the provisions of LSA R.S. 37:2650 et seq.

B. Any complaint bearing on a licensee's professional competence, conviction of a crime, unauthorized practice, mental competence, neglect of practice, or violation of state law or ethical standards where applicable to the practice of speech-language pathology or audiology shall be submitted to the board.

C. Complaints shall be in writing and signed by the complainant.

D. Once a written complaint is received, the board shall initiate a review of the allegations contained therein. The board may dispose of the complaint informally through correspondence or conference with the licensee and/or the complainant, which may result in a consent order agreeable to both parties. If the licensee stipulates to the complaint and waives her/his right to a formal hearing, the board may impose appropriate sanctions without delay. If the board finds that a complaint can not be resolved informally, the written complaint shall be forwarded to the board's designated investigator for investigation. The board shall at that time notify the licensee, by certified mail, return receipt requested, of the investigation.

E. The board's designated investigator shall have authority to investigate the nature of the complaint through conference and correspondence directed to those parties or witnesses involved. The board's designated investigator shall send the involved licensee notice by certified mail, return receipt requested, of the investigation containing a short summary of the complaint and a list of any questions the designated investigator may direct to the licensee relative to the complaint. All subsequent letters to the involved licensee, all letters to the complainant, or any other witness, shall be sent with a designation "personal and confidential" clearly marked on the outside of the envelope.

F. The designated investigator shall conclude the investigation as quickly as possible, without compromising thoroughness. Unless good cause is shown by the designated investigator satisfactory to the board, which may extend the time for the investigation, the investigation and recommendations to the board shall be delivered to the board within 60 days of the date that the designated investigator first received the assignment from the board.

G. The designated investigator shall report to the board and make a recommendation for either proceeding to an informal hearing, a formal hearing, or for a dismissal of the complaint. When the designated investigator's recommended action may lead to denial, suspension, or revocation of a license, the board shall convene a formal adjudication hearing. The designated investigator may determine that the licensee's explanation satisfactorily answers the complaint and may recommend to the board that the matter be dismissed. The

recommended remedial action or dismissal of the complaint shall be forwarded to the complainant and to the licensee.

H. The designated investigator may also recommend that the complaint be resolved by a consent order entered into by the licensee and the complainant. If the order contains any agreement by the licensee to some remedial course of action, the agreement shall be signed by the complainant, the licensee, and a majority of the board. The designated investigator shall make note of any agreement arrived at between the complainant and the licensee, but such an agreement shall not necessarily preclude further disciplinary action by the board against the licensee.

I. If the designated investigator's recommendation for an informal hearing is accepted by the board, the designated investigator shall notify the licensee of the time, date, and place of the informal hearing and of the issues to be discussed. The licensee shall appear on a voluntary basis. The licensee shall be advised that the hearing will be informal, no attorneys will be present, and no transcript of the hearing will be made. Any witnesses who testify will not be placed under oath, and no subpoenas will be issued. The licensee shall be informed that any statements made at the informal hearing will not be used or introduced at a formal hearing, unless all parties consent. If the licensee notifies the designated investigator that s/he does not wish an informal hearing, or if the licensee fails or refuses to attend an informal hearing, the informal hearing shall not be held. In that event, the board shall initiate a formal disciplinary hearing.

J. The designated investigator shall recommend to the board the initiation of a formal disciplinary hearing if the investigation discloses any of the following: the complaint is sufficiently serious to require a formal adjudication; the licensee fails to respond to the correspondence by the designated investigator concerning the complaint; the licensee's response to the designated investigator discloses that further action is necessary; an informal hearing is held but does not resolve all of the issues; or the licensee refuses to comply with the recommended remedial action.

K. The designated investigator shall submit any recommended action to the board in brief, concise language, without any reference to the particulars of the investigation, to any findings of fact or any conclusions of law arrived at during the investigative process.

L. The board shall have the authority to delegate to the designated investigator any alleged violations of the Speech-Language Pathology and Audiology Act, LSA R.S. 37:2650 et seq., and any alleged violations of any and all rules and regulations adopted by the board pursuant thereto, prior to board action on those alleged violations. If requested by the board, the designated investigator shall submit to the board the complete investigation file. Final authority for appropriate action rests solely with the board.

M. At no time shall the designated investigator investigate any case as authorized by the board where the investigator has any personal or economic interest in the outcome of the investigation, or is personally related to or maintains a close friendship with the complainant, the licensee, or any of the witnesses involved. In such event, the designated investigator shall immediately notify the board, who shall appoint a

substitute investigator for disposition of that particular case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR17:373 (April 1991), amended LR 22:356 (May 1996).

§503. Compliance Hearings

A. The board shall provide a compliance hearing to a rejected applicant for licensure provided that the rejected applicant requests a compliance hearing in writing within 30 days of the receipt of the notice of rejection. The applicant's request for a compliance hearing shall state with specificity the reason(s) why the application should be accepted.

B. A licensee whose license has lapsed for non-payment of renewal fees shall be entitled to a compliance hearing provided that the licensee requests one in writing within 10 days after receipt of the notice for the lapsed license, or, in the event that the licensee did not receive notice of the lapsed license, within 30 days of the date upon which the license would have lapsed by operation of law.

C. The purpose and intent of the compliance hearing is to provide a forum for the applicant or licensee to present documentary evidence, in the form of affidavits, public records, official records, letters, etc., along with testimony under oath to establish that the applicant or licensee does, in fact, meet the lawful requirements for issuance of a license or the retention of the license. The board shall have the authority to administer oaths, hear the testimony, and conduct the hearing. The applicant or licensee may be represented by counsel, or may represent her/himself.

D. In any compliance hearing, the burden of proof shall rest with the applicant or licensee to establish that s/he meets the criteria for licensure or that her/his license was timely renewed.

E. Within 15 days after the compliance hearing, the board shall forward its final decision, including specific reasons therefore, by certified mail, return receipt requested, to the applicant or licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:357 (May 1996).

§505. Formal Disciplinary Hearings

A. If, after completion of the investigation, the board determines that the circumstances may warrant the withholding, denial, suspension, or revocation of a license, or other disciplinary action, the board shall initiate a formal disciplinary hearing. The board shall promptly notify the attorney general who is authorized and directed to appear on behalf of the state. The hearing shall convene in a designated Louisiana city, giving due consideration to the parish of residence of the applicant or licensee, the parish of residence of the complainant, the parish of residence of other witnesses, and other factors deemed important by the board. The hearing shall be held before the board only after the involved licensee is given at least 30 days notice by certified mail, return receipt requested. The notice shall include the following:

1. a statement of the date, time, place, and nature of the hearing;

2. a statement of the legal authority and jurisdiction under which the hearing is to be held;

3. a reference to the particular sections of the statute and/or rules involved;

4. a short and plain statement enumerating the charges;

5. a statement advising the licensee of her/his right to be represented by legal counsel;

6. the names of the members of the hearing panel.

B. If the board is unable to state the charges in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved, thereafter, upon written request, a more definite and detailed statement shall be furnished.

C. The board shall arrange for a certified shorthand reporter to make an accurate recording of all testimony presented and all documents entered into evidence at the hearing. A party wishing to file documents into evidence shall provide the court reporter with a copy marked for identification as an exhibit and shall provide copies to each member of the hearing panel, the board's legal counsel, opposing counsel, as well as counsel for any joined parties, and/or any unrepresented parties.

D. By bringing a complaint, the complainant waives the privilege of confidentiality for the purpose of the formal disciplinary hearing.

E. The rules of evidence, authority to administer oaths, issue subpoenas, conduct discovery, and control confidential privileged information shall apply to the formal disciplinary hearing in the form specified by LSA R.S. 37:2656, 2663, the rules and regulations promulgated by this board, and as specified in the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq.

F. It is the licensee's continuing obligation to keep the board informed of her/his whereabouts. Accordingly, if notice of the hearing cannot be delivered by mail because of a licensee's change of address and the new address is not provided to the board, the board may hold the hearing in the licensee's absence, after making reasonable efforts to obtain the licensee's new address.

G. Within 15 days of the licensee's receipt of notice, s/he may file a written answer to the notice, denying some or all of the charges, or offering any explanation or asserting whatever defense s/he deems applicable.

H. The board shall have discretion to consolidate one or more cases for hearing involving the same or related parties or substantially the same questions of fact or law. The board may also grant separate hearings if a joint hearing may be prejudicial to one or more of the parties. If hearings are to be consolidated, notice shall be given to all parties in advance of the hearing.

I. The presiding officer shall consider a motion to modify or quash any subpoena issued in connection with the hearing, provided that such motion is filed by certified mail, return receipt requested, with the board at its registered office not later than three days prior to the hearing date or the date scheduled for the deposition, if the subpoena was issued in connection with a deposition. Possible grounds to quash or

limit the subpoena include, but are not limited to: testimony on material protected by privilege or state regulation or other law; burdensomeness that would not be justified in light of the evidence important to the case; undue hardship on a witness; vagueness; immateriality.

J. The burden of proof at a formal disciplinary hearing rests with the attorney general who is bringing the charge before the board. No sanction shall be imposed or order issued, except upon consideration of the entire record, as supported by and in accordance with reliable, probative, and substantial evidence. The standard of proof in all hearings before the board and for any review or examination of evidence provided by LSA R.S. 49:957 or 958, shall be carried by a preponderance of the evidence.

K. If the board finds by a preponderance of the evidence that the withholding, denial, suspension, or revocation of a license, or other disciplinary action is warranted, the board shall sanction said individual according to the provisions of LSA R.S. 37:2662(B):

1. refuse to issue a license;
2. refuse to renew a license;
3. issue a private letter of reprimand or concern;
4. issue a public letter of reprimand or concern;
5. require restitution of costs and expenses incurred by the board related to the enforcement of LSA R.S. 37:2650 et seq.;
6. impose probationary conditions;
7. impose a fine for each violation not to exceed \$1,000 per violation;
8. suspend a license;
9. revoke a license;
10. restrict the license by limiting or reducing the scope of practice; and/or
11. otherwise discipline a licensee.

L. A final decision or order adverse to a party in an adjudication proceeding shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified by the board, either personally or by certified mail, return receipt requested, of any decision or order. Upon request, a copy of the decision or order shall be mailed to each party and to her/his attorney of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:357 (May 1996).

§507. General Procedural Rules For Hearings

A. The board is empowered to issue subpoenas upon receipt of a written request from the licensee or attorney general at least 30 days in advance of any scheduled hearing. The board shall issue said subpoenas upon receipt of said written request and receipt of any and all fees for subpoenas as provided for in §111.R promulgated by the board.

B. The board may petition a court of competent jurisdiction for a contempt rule to show cause when there is a failure to comply with a subpoena.

C. The board shall elect from its membership a person to act as presiding officer of the hearing. The presiding officer shall have the power to: regulate the discovery process; hold pre-hearing conferences for the simplification or settlement of issues; convene the hearing; place witnesses under oath; take action necessary to maintain order; rule on motions and procedural questions arising prior to, during or after the hearing; rule on objections and admissibility of evidence; call recesses or adjourn the hearing; and prescribe and enforce general rules of conduct and decorum. The other board members may not delegate their decision making and fact finding duties to the presiding officer, nor shall the presiding officer have any greater weight in the decision making process than any other board member. The board's findings of fact and conclusions of law shall be signed by a majority of the hearing panel finding those facts and conclusions of law. Any member of the hearing panel disagreeing with those findings and conclusions may also file a dissent in the record with her/his decisions therefore.

D. Any board member having reason to believe that s/he is biased against one of the parties in the proceeding, or has a personal interest in the outcome of the proceeding, shall immediately notify the other board members and request to be disqualified. Any party to a hearing may file with the board an affidavit requesting a disqualification of a board member from the formal hearing because of the board member's bias or personal interest. As soon as possible, but no later than the beginning of the hearing, the majority of the board shall pass upon any request for disqualification. The concerned board member shall not participate in the deliberation of the board on the issue of disqualification, and shall not vote on the issue. If the board determines that there is no merit to the request for disqualification, the board shall proceed with the hearing. Any doubt concerning the fitness of a board member shall be resolved in favor of disqualification. In the event disqualification occurs, the board shall immediately request the governor to appoint a board member pro tem to replace the disqualified member for the hearing in progress only.

E. The parties to the hearing are urged, but not required, to confer prior to the hearing, through their respective counsel, or personally, to attempt to reduce or simplify the issues to be heard. The board shall honor any stipulations arrived at between the parties as proven facts at the hearing. The purpose at the pre-hearing conference is to insure that the hearing is not unusually delayed by receiving testimony or other evidence on matters which are not seriously in dispute between the parties.

F. The procedures to be followed in conducting the hearing governing the order of the proceedings are contained in Chapter 12 of the *Disciplinary Action Manual For Occupational Licensing Boards* prepared by the Louisiana Department of Justice, 1979, through the Office of the Attorney General. A copy of the Chapter will be provided to any interested party involved with the hearing upon receipt by the board of a written request therefore.

G. Parties may conduct discovery pursuant to the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq. Said discovery shall not unduly delay the hearing before the board.

H. For good cause shown, the board has discretion to extend or continue the time set for the hearing for such reasons as ill health, inability to obtain counsel, the complexities of the case, or such other matters deemed by the board to constitute good cause.

I. Upon request by either the licensee or the attorney general, witnesses shall be sequestered and not allowed in the hearing chambers during the hearing or permitted to discuss their testimony with other witnesses prior to the conclusion of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April, 1991), amended LR 22:358 (May 1996).

§509. Rehearing

A. A decision or order in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board within 10 days from the date of its entry. The grounds for such action shall be either that:

1. the decision or order is clearly contrary to the law and the evidence;
2. the party has discovered since the hearing evidence important to the issues which s/he could not have with due diligence obtained before or during the hearing;
3. there is a showing that issues not previously considered should be examined in order to properly dispose of the matter; or
4. there is other good ground for further consideration of the issues and the evidence in the public interest.

B. The petition of a party for rehearing, reconsideration, or review and the order of the board granting it, shall set forth the grounds which justify such action. Nothing in this rule shall prevent rehearing, reopening, or reconsideration of a matter by this board in accordance with other statutory provisions applicable to the board, or, at any time, on the ground of fraud practiced by the prevailing party or of procurement of the order by perjured testimony or fictitious evidence. On reconsideration, reopening, or rehearing, the matter shall be heard by the board. The hearing shall be confined to those grounds upon which the reconsideration, reopening, or rehearing was ordered. If an application for rehearing shall be timely filed, the period within which judicial review, under the applicable statute, must be sought, shall run from the final disposition of such application.

C. If a petition for rehearing, reconsideration, or review is granted, the decision of the board is not final and therefore is not implemented until a decision is reached after the rehearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:359 (May 1996).

§511. The Case Record

The case record shall include the following, plus other material that the board considers desirable to obtain:

1. all papers filed and served in the proceedings;

2. all motions filed, answers or objections thereto, and all decisions of the board in response to the motions;

3. all documents and other evidence accepted as evidence at the hearing;

4. statements of matters officially noticed;

5. notices required by statutes or rules, including notice of the hearing;

6. affidavits of service or receipts for mailing of process or other evidence of service;

7. stipulations, settlement agreements, or consent orders;

8. records of matters agreed upon at the pre-hearing conference;

9. orders of the board and its final decision;

10. actions taken subsequent to the decision, including requests for reconsideration and rehearing;

11. a transcript of the proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 22:359 (May 1996).

§513. Declaratory Orders

Any party or person deemed to be governed by or under the jurisdiction of the Speech-Language Pathology and Audiology Act, R.S. 37:2650 et seq., may apply to the board for a declaratory order or ruling in order to determine the applicability of a statutory provision, rule of this board, or ethical consideration of this board, to said party or person. The board shall issue the declaratory order or ruling in connection with the request by majority vote of the board, signed and mailed to the requesting party. The board may seek an opinion of legal counsel or the attorney general in connection with the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 22:359 (May 1996).

§515. Judicial Review

A. A person who is aggrieved by a final decision or order in an adjudication proceeding is entitled to judicial review whether or not s/he has applied to the board for rehearing. A preliminary, procedural, or intermediate board action or ruling is immediately reviewable if review of the final board decision would not provide an adequate remedy and would inflict irreparable injury.

B. Proceedings for review shall be instituted by filing a petition in the Nineteenth Judicial District Court for the Parish of East Baton Rouge within 30 days after mailing of notice of the final decision by the board or, if rehearing is requested, within 30 days after the decision thereon. Copies of the petition shall be served upon the board and all parties of record.

C. The filing of the petition does not itself stay enforcement of the board decision. The board may grant, or the reviewing court may order, a stay upon appropriate terms.

D. Within 30 days after the service of the petition on the board or within further time allowed by the court, the board shall transmit to the reviewing court a certified copy of the

entire record of the proceeding under review. By stipulation of all parties, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs.

E. If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the board, the court may order that the additional evidence be taken before the board upon conditions determined by the court. The board may modify its finding and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

F. The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the board, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and shall receive written briefs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 22:359 (May 1996).

§517. Appeals

An aggrieved party may obtain a review of any final judgment of the Nineteenth Judicial District Court by appeal to the Court of Appeal for the First Circuit. The appeal shall be taken as in other civil cases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 22:360 (May 1996).

Chapter 7. Code of Ethics

§701. Preamble

A. The Code of Ethics of the Louisiana Board of Examiners for Speech-Language Pathology and Audiology specifies professional standards that allow for the proper discharge of professionals' responsibilities to those served and that protect the integrity of the profession.

B. Any action that violates the spirit and purpose of this Code shall be considered unethical. Failure to specify any particular responsibility or practice in this Code of Ethics shall not be construed as denial of the existence of such responsibilities or practices.

C. Principles of Ethics, aspirational and inspirational in nature, form the underlying moral basis for the Code of Ethics. Individuals shall observe these principles as affirmative obligations under all conditions of professional activity.

D. Rules of Ethics are specific statements of minimally acceptable professional conduct or of prohibitions and are applicable to all individuals.

E. Rules of Ethics

1. Principle of Ethics I. Licensees shall provide professional services with honesty and compassion and shall respect the dignity, worth, and rights of those served.

a. Individuals shall use every resource, including

referral when appropriate, to ensure that high-quality service is provided and shall not accept or offer benefits or items of personal value for receiving or making referrals.

b. Individuals shall not discriminate in the delivery of professional services on the basis of race or ethnicity, gender, age, religion, national origin, sexual orientation, or disability.

c. Individuals shall fully inform the persons they serve of the nature and possible effects of services rendered and products dispensed.

d. Individuals shall evaluate the effectiveness of services rendered and of products dispensed and shall provide services or dispense products only when benefits can reasonably be expected.

e. Individuals shall not guarantee the results of any treatment or procedure, directly or by implication; however, they may make a reasonable statement of prognosis.

f. Individuals shall not evaluate or treat speech, language, or hearing disorders solely by correspondence. This does not preclude follow-up correspondence with persons previously seen, nor the provision of general information of an educational nature.

g. Individuals shall maintain adequate records of professional services rendered and products dispensed and shall allow access to these records when appropriately authorized.

h. Individuals shall not reveal, without authorization, any professional or personal information about the person served professionally, unless required by law to do so, or unless doing so is necessary to protect the welfare of the person or of the community.

i. Individuals shall not charge for services not rendered, nor shall they misrepresent, in any fashion, services rendered or products dispensed.

j. Individuals shall not carry out teaching, or research activities in a manner that constitutes an invasion of privacy, or that fails to inform persons fully about the nature and possible effects of these activities, affording all persons informed free-choice and participation.

k. Individuals whose professional services are adversely affected by substance abuse or other health-related conditions shall seek professional assistance and, where appropriate, withdraw from the affected areas of practice.

1. Individuals shall not engage in sexual activity with a patient/client.

2. Principle of Ethics II. Individuals shall honor their responsibility to achieve and maintain the highest level of professional competence.

a. Individuals shall provide all services competently. Individuals shall engage in only those aspects of the professions that are within the scope of their competence, considering their level of education, training and experience.

b. Individuals shall hold the appropriate qualifications for the area(s) in which they are providing or supervising professional services.

c. Individuals shall continue their professional development throughout their careers.

d. Individuals shall provide appropriate supervision and assume full responsibility for services delegated to support personnel. Individuals shall not delegate any service

requiring professional competence to persons unqualified.

e. Individuals shall neither provide services nor supervision of services for which they have not been properly prepared, nor permit services to be provided by any of their staff who are not properly prepared.

f. Individuals shall ensure that all equipment used in the provision of services is in proper working order and is properly calibrated.

3. Principle of Ethics III. Individuals shall honor their responsibility to the public by promoting public understanding of the professions, by supporting the development of services designed to fulfill the unmet needs of the public, and by providing accurate information in all communications involving any aspect of the professions.

a. Individuals shall not misrepresent their credentials, competence, education, training or experience.

b. Individuals shall not participate in professional activities that constitute a conflict of interest.

c. Individuals shall not misrepresent diagnostic information, services rendered, or products dispensed, or engage in any scheme or maneuver to defraud in connection with obtaining payment or reimbursement for such services or product.

d. Individuals' statements to the public shall provide accurate information about the nature and management of communication disorders, about the professions, and about professional services.

e. Individuals' statements to the public - advertising, announcing and marketing their professional services, reporting research results, and promoting products - shall adhere to prevailing professional standards and shall not contain misrepresentations.

4. Principle of Ethics IV. Individuals shall honor their responsibilities to the professions and their relationships with colleagues, students, and members of allied professions. Individuals shall uphold the dignity and autonomy of the professions, maintain harmonious interprofessional and intraprofessional relationships, and accept the professions' self-imposed standards.

a. Individuals shall prohibit anyone under their supervision from engaging in any practice that violates the Code of Ethics.

b. Individuals shall not engage in dishonesty, fraud, deceit, misrepresentation, or any form of conduct that adversely reflects on the professions or on the individual's fitness to serve persons professionally.

c. Individuals shall assign credit only to those who have contributed to a publication, presentation, or product. Credit shall be assigned in proportion to the contribution and only with the contributor's consent.

d. Individuals' statements to colleagues about professional services, research results, and products shall adhere to prevailing professional standards and shall contain no misrepresentations.

e. Individuals shall not provide professional services without exercising independent professional judgment, regardless of referral source or prescription.

f. Individuals shall not discriminate in their

relationships with colleagues, students, and members of allied professions on the basis of race or ethnicity, gender, age, religion, national origin, sexual orientation, or disability.

g. Individuals shall not violate these Principles and Rules, nor attempt to circumvent them.

h. Individuals shall inform the board of any violations of this Code of Ethics.

i. Individuals shall cooperate fully with the board on matters of professional conduct relative to this Code of Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:371 (April 1991), amended LR 22:360 (May 1996).

§703. Principle of Ethics I

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:371 (April 1991), repealed LR 22:361 (May 1996).

§705. Ethical Proscriptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:371 (April 1991), repealed LR 22:361 (May 1996).

§707. Principle of Ethics II

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:371 (April 1991), repealed LR 22:361 (May 1996).

§709. Ethical Proscriptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:371 (April 1991), repealed LR 22:361 (May 1996).

§711. Principle of Ethics III

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:372 (April 1991), repealed LR 22:361 (May 1996).

§713. Ethical Proscriptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:372 (April 1991), repealed LR 22:361 (May 1996).

§715. Matters of Professional Propriety

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:372 (April 1991), repealed LR 22:362 (May 1996).

§717. Principles of Ethics IV

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:372 (April 1991), repealed LR 22:362 (May 1996).

§719. Matters of Professional Propriety

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:372 (April 1991), repealed LR 22:362 (May 1996).

§721. Ethical Proscriptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:372 (April 1991), repealed LR 22:362 (May 1996).

§723. Principles of Ethics V

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:372 (April 1991), repealed LR 22:362 (May 1996).

§725. Ethical Proscriptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:372 (April 1991), repealed LR 22:362 (May 1996).

Suzanne L. Pevey
Administrator

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RULE

**Department of Health and Hospitals
Office of Public Health**

Children's Special Health Services (CSHS)
(LAC 48:V.Chapters 49-53)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Health and Hospital, Office

of Public Health is adopting a rule to amend, repeal and reenact Part V of the Louisiana Administrative Code, Preventive Health Services, Subpart 17. Children's Special Health Services (CSHS) to resolve service delivery issues, as follows: Sections 4901, 4903, 4905, 5101, 5103, 5105, 5107, 5109, 5113, 5115, 5117, 5301, 5501, 5503, 5505, 5509, 5511, 5513, 5515, 5517, and 5519, to be repealed and reenacted; Section 5903, to be amended; Sections 5111, 5303, and 5305, to be repealed.

The full text of these proposed rules can be obtained by contacting the Office of the State Register, 1051 North Third Street, Room 515, Baton Rouge, LA 70802, at a cost of \$13.50. Please reference the document number 9605#050.

Bobby P. Jindal
Secretary

9605#050

RULE

**Department of Health and Hospitals
Office of Public Health**

Establishment of an Office of Research Integrity

There is hereby established within the Office of Public Health (OPH) an Office of Research Integrity (ORI) to comply with federal regulation 42 CFR Part 50, Subpart A. The complete policies and procedures of the OPH-ORI have been accepted as complying with the federal guidelines by the United States Department of Health and Human Services, Office of Research Integrity and are as follows.

I. Introduction

A. General Policy

The Louisiana Office of Public Health is fully and unequivocally dedicated to maintaining the highest of scientific standards in its patient care, public health and health-related research activities. These standards include adherence to professional health care ethics, as stated in health care worker professional conduct or ethics codes and/or in state law. All such ethics include maintenance of scientific integrity, preventing misconduct in research, doing no harm to anyone whose health care is in the trust of the Louisiana Office of Public Health, and supporting in good faith those persons, who report suspected or known activities contrary to these stated ethics guidelines.

B. Scope

This policy and the associated procedures apply to all individuals at the Louisiana Office of Public Health engaged in research that is supported by or for which support is requested from PHS. The PHS regulation at 42 CFR Part 50, Subpart A applies to any research, research-training or research-related grant or cooperative agreement with PHS. This policy applies to any person paid by, under the control of, or affiliated with the institution, such as scientists, trainees, technicians and other staff members, students, fellows, guest researchers, or collaborators at the Louisiana Office of Public Health.

The policy and associated procedures will normally be followed when an allegation of possible misconduct in science is received by an institutional official. Particular circumstances in an individual case may dictate variation from the normal procedure deemed in the best interests of the Louisiana Office of Public Health and PHS. Any change from normal procedures also must ensure fair treatment to the subject of the inquiry or investigation. Any significant variation should be approved in advance by the research integrity officer of the Louisiana Office of Public Health.

II. Definitions

A. *Allegation*—any written or oral statement or other indication of possible scientific misconduct made to an institutional official.

B. *Complainant*—a person who makes an allegation of scientific misconduct.

C. *Conflict of Interest*—the real or apparent interference of one person's interests with the interests of another person, where potential bias may occur due to prior or existing personal or professional relationships.

D. *Deciding Official*—the institutional official who makes final determinations on allegations of scientific misconduct and any responsive institutional actions. The deciding official will not be the same individual as the research integrity officer and should have no direct prior involvement in the institution's inquiry, investigation or allegation assessment.

E. *Goodfaith Allegation*—an allegation made with the honest belief that scientific misconduct may have occurred. An allegation is not in good faith if it is made with reckless disregard for or willful ignorance of facts that would disprove the allegation.

F. *Inquiry*—gathering information and initial fact-finding to determine whether an allegation or apparent instance of scientific misconduct warrants an investigation.

G. *Investigation*—the formal examination and evaluation of all relevant facts to determine if misconduct has occurred, and, if so, to determine the responsible person and the seriousness of the misconduct.

H. *ORI*—the Office of Research Integrity, the office within the U. S. Department of Health and Human Services (DHHS) that is responsible for the scientific misconduct and research integrity activities of the U.S. Public Health Service.

I. *PHS*—the U.S. Public Health Service, an operating component of the DHHS.

J. *PHS Regulation*—the Public Health Service regulation establishing standards for institutional inquiries and investigations into allegations of scientific misconduct, which is set forth at 42 CFR Part 50, Subpart A, entitled "Responsibility of PHS Awardee and Applicant Institutions for Dealing With and Reporting Possible Misconduct in Science."

K. *PHS Support*—PHS grants, contracts, or cooperative agreements or applications therefore.

L. *Research Integrity Officer*—the institutional official responsible for assessing allegations of scientific misconduct and determining when such allegations warrant inquiries and for overseeing inquiries and investigations.

M. *Research Record*—any data, document, computer file, computer diskette, or any other written or non-written account

or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted or reported research that constitutes the subject of an allegation of scientific misconduct. A research record includes, but is not limited to, grant or contract applications, whether funded or unfunded; grant or contract progress and other reports; laboratory notebooks; notes; correspondence; videos, photographs; X-ray film; slides; biological materials; computer files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; consent forms; medical charts and patient research files.

N. *Respondent*—the person against whom an allegation of scientific misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.

O. *Retaliation*—any action that adversely affects the employment or other institutional status of an individual that is taken by an institution or an employee because the individual has in good faith, made an allegation of scientific misconduct or of inadequate institutional response thereto or has cooperated in good faith with an investigation of such allegation.

P. *Scientific Misconduct or Misconduct in Science*—fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations or judgments of data.

III. Rights and Responsibilities

A. Research Integrity Officer

The deciding official will appoint the research integrity officer who will have primary responsibility for implementation of the procedures set forth in this document. The research integrity officer will be an institutional official who is well qualified to handle the procedural requirements involved and is sensitive to the varied demands made on those who conduct research, those who are accused of misconduct, and those who report apparent misconduct in good faith.

The research integrity officer will appoint the inquiry and investigation committees and ensure that necessary and appropriate expertise is secured to carry out a thorough and authoritative evaluation of the relevant evidence in an inquiry or investigation. The research integrity officer will attempt to ensure that confidentiality is maintained.

The research integrity officer will assist inquiry and investigation committees and all institutional personnel in complying with these procedures and with applicable standards imposed by government or external funding sources. The research integrity officer is also responsible for maintaining files of all documents and evidence and for the confidentiality and the security of the files.

The research integrity officer will report to ORI as required by regulation and keep ORI apprised of any developments during the course of the inquiry or investigation that may affect current or potential DHHS funding for the individual(s) under investigation or that PHS needs to know

to ensure appropriate use of Federal funds and otherwise protect the public interest.

B. Complainant

The complainant will have an opportunity to testify before the inquiry and investigation committees, to review portions of the inquiry and investigation reports pertinent to his/her allegations or testimony, to be informed of the results of the inquiry and investigation, and to be protected from retaliation. Also, if the research integrity officer has determined that the complainant may be able to provide pertinent information on any portions of the draft report, these portions will be given to the complainant for comment.

The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with an inquiry or investigation.

C. Respondent

The respondent will be informed of the allegations when an inquiry is opened and notified in writing of the final determinations and resulting actions. The respondent will also have the opportunity to be interviewed by and present evidence to the inquiry and investigation committees, to review the draft inquiry and investigation reports, and to have the advice of counsel.

The respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry or investigation. If the respondent is not found guilty of scientific misconduct, he or she has the right to receive institutional assistance in restoring his or her reputation.

D. Deciding Official

The deciding official will receive the inquiry and/or investigation report and any written comments made by the respondent or the complainant on the draft report. The deciding official will consult with the research integrity officer or other appropriate officials and will determine whether to conduct an investigation, whether misconduct occurred, whether to impose sanctions, or whether to take other appropriate administrative actions [see Section X].

IV. General Policies and Principles

A. Responsibility to Report Misconduct

All employees or individuals associated with the Louisiana Office of Public Health should report observed, suspected, or apparent misconduct in science to the research integrity officer. If an individual is unsure whether a suspected incident falls within the definition of scientific misconduct, he or she may call the research integrity officer at (504) 568-5048 or LINC 621-5048 or 1-800-256-4609 to discuss the suspected misconduct informally. If the circumstances described by the individual do not meet the definition of scientific misconduct, the research integrity officer will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

At any time, an employee may have confidential discussions and consultations about concerns of possible misconduct with the research integrity officer and will be counseled about appropriate procedures for reporting allegations.

B. Protecting the Complainant

The research integrity officer will monitor the treatment of individuals who bring allegations of misconduct or of

inadequate institutional response thereto, and those who cooperate in inquiries or investigations. The research integrity officer will ensure that these persons will not be retaliated against in the terms and conditions of their employment or other status at the institution and will review instances of alleged retaliation for appropriate action.

Employees should immediately report any alleged or apparent retaliation to the research integrity officer.

Also, the institution will protect the privacy of those who report misconduct in good faith to the maximum extent possible. For example, if the complainant requests anonymity, the institution will make an effort to honor the request during the allegation assessment or inquiry within applicable policies and regulations and state and local laws, if any. The complainant will be advised that if the matter is referred to an investigation committee and the complainant's testimony is required, anonymity may no longer be guaranteed. Institutions are required to undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations.

C. Protecting the Respondent

Inquiries and investigations will be conducted in a manner that will ensure fair treatment to the respondent(s) in the inquiry or investigation and confidentiality to the extent possible without compromising public health and safety or thoroughly carrying out the inquiry or investigation.

Institutional employees accused of scientific misconduct may consult with legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the case) to seek advice and may bring the counsel or personal adviser to interviews or meetings on the case.

D. Cooperation with Inquiries and Investigations. Institutional employees will cooperate with the research integrity officer and other institutional officials in the review of allegations and the conduct of inquiries and investigations. Employees have an obligation to provide relevant evidence to the research integrity officer or other institutional officials on misconduct allegations.

E. Preliminary Assessment of Allegations. Upon receiving an allegation of scientific misconduct, the research integrity officer will immediately assess the allegation to determine whether there is sufficient evidence to warrant an inquiry, whether PHS support or PHS applications for funding are involved, and whether the allegation falls under the PHS definition of scientific misconduct.

V. Conducting the inquiry

A. Initiation and Purpose of the Inquiry. Following the preliminary assessment, if the research integrity officer determines that the allegation provides sufficient information to allow specific follow-up, involves PHS support, and falls under the PHS definition of scientific misconduct, he or she will immediately initiate the inquiry process. In initiating the inquiry, the research integrity officer should identify clearly the original allegation and any related issues that should be evaluated. The purpose of the inquiry is to make a preliminary evaluation of the available evidence and testimony of the respondent, complainant, and key witnesses to determine whether there is sufficient evidence of possible scientific misconduct to warrant an investigation. The

purpose of the inquiry is not to reach a final conclusion about whether misconduct definitely occurred or who was responsible. The findings of the inquiry must be set forth in an inquiry report.

B. Sequestration of the Research Records. After determining that an allegation falls within the definition of misconduct in science and involves PHS funding, the research integrity officer must ensure that all original research records and materials relevant to the allegation are immediately secured. The research integrity officer may consult with ORI for advice and assistance in this regard.

C. Appointment of the Inquiry Committee

The research integrity officer, in consultation with other institutional officials as appropriate, will appoint an inquiry committee and committee chair within 10 working days of the initiation of the inquiry. The inquiry committee should consist of individuals who do not have real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry. These individuals may be scientists, subject matter experts, administrators, lawyers, or other qualified persons, and they may be from inside or outside the institution.

The research integrity officer will notify the respondent of the proposed committee membership in 10 working days. If the respondent submits a written objection to any appointed member of the inquiry committee or expert based on bias or conflict of interest within five days, the research integrity officer will determine whether to replace the challenged member or expert with a qualified substitute.

D. Charge to the Committee and the First Meeting

The research integrity officer will prepare a charge for the inquiry committee that describes the allegations and any related issues identified during the allegation assessment and states that the purpose of the inquiry is to make a preliminary evaluation of the evidence and testimony of the respondent, complainant, and key witnesses to determine whether there is sufficient evidence of possible scientific misconduct to warrant an investigation as required by the PHS regulation. The purpose is not to determine whether scientific misconduct definitely occurred or who was responsible.

At the committee's first meeting, the research integrity officer will review the charge with the committee, discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry, assist the committee with organizing plans for the inquiry, and answer any questions raised by the committee. The research integrity officer and institutional counsel will be present or available throughout the inquiry to advise the committee as needed.

E. Inquiry Process. The inquiry committee will normally interview the complainant, the respondent, and key witnesses as well as examining relevant research records and materials. Then the inquiry committee will evaluate the evidence and testimony obtained during the inquiry. After consultation with the research integrity officer and institutional counsel, the committee members will decide whether there is sufficient evidence of possible scientific misconduct to recommend further investigation. The scope of the inquiry does not

include deciding whether misconduct occurred or conducting exhaustive interviews and analyses.

VI. The Inquiry Report

A. Elements of the Inquiry Report. A written inquiry report must be prepared that states the name and title of the committee members and experts, if any; the allegations; the PHS support; a summary of the inquiry process used; a list of the research records reviewed; summaries of any interviews; a description of the evidence in sufficient detail to demonstrate whether an investigation is warranted or not; and the committee's determination as to whether an investigation is recommended and whether any other actions should be taken if an investigation is not recommended. Institutional counsel will review the report for legal sufficiency.

B. Comments on the Draft Report by the Respondent and the Complainant. The research integrity officer will provide the respondent with a copy of the draft inquiry report or a summary of the inquiry findings for comment and rebuttal and will provide the complainant, if he or she is identifiable, with portions of the draft inquiry report that address the complainant's role and opinions in the investigation.

1. Confidentiality. The research integrity officer may establish reasonable conditions for review to protect the confidentiality of the draft report.

2. Receipt of Comments. Within 14 calendar days of their receipt of the draft report, the complainant and respondent will provide their comments, if any, to the inquiry committee. Any comments that the complainant or respondent submits on the draft report will become part of the final inquiry report and record. Based on the comments, the inquiry committee may revise the report as appropriate.

C. Inquiry Decision and Notification.

1. Decision by Deciding Official. The Research Integrity Office will transmit the final report and any comments to the Deciding Official, who will make the determination of whether findings from the inquiry provide sufficient evidence of possible scientific misconduct to justify conducting an investigation. The inquiry is completed when the Deciding Official makes this determination, which will be made within 60 days of the first meeting of the inquiry committee. Any extension of this period will be based on good cause and recorded in the inquiry file.

2. Notification. The research integrity officer will notify both the respondent and the complainant in writing of the Deciding Official's decision of whether to proceed to an investigation and will remind them of their obligation to cooperate in the event an investigation is opened. The research integrity officer will also notify all appropriate institutional officials of the Deciding Official's decision.

D. Time Limit for Completing the Inquiry Report. The inquiry committee will normally complete the inquiry and submit its report in writing to the research integrity officer no more than 60 calendar days following its first meeting, unless the research integrity officer approves an extension for good cause. If the research integrity officer approves an extension, the reason for the extension will be entered into the records of the case and the report. The respondent also will be notified of the extension.

VII. Conducting the Investigation

A. Purpose of the Investigation. The purpose of the investigation is to explore in detail the allegations, to examine the evidence in depth, and to determine specifically whether misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged misconduct involves clinical trials or potential harm to human subjects or the general public or if it affects research that forms the basis for public policy, clinical practice, or public health practice. The findings of the investigation will be set forth in an investigation report.

B. Sequestration of the Research Records. The research integrity officer will immediately sequester any additional pertinent research records that were not previously sequestered during the inquiry. This sequestration should occur before or at the time the respondent is notified that an investigation has begun. The need for additional sequestration of records may occur for any number of reasons, including the institution's decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry.

C. Appointment of the Investigation Committee

The research integrity officer, in consultation with other institutional officials as appropriate, will appoint an investigation committee and the committee chair within 10 working days of the notification to the respondent that an investigation is planned or as soon thereafter as practicable. The investigation committee should consist of at least three individuals who do not have real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and issues related to the allegations, interview the principals and key witnesses, and conduct the investigation. These individuals may be scientists, administrators, subject matter experts, lawyers, or other qualified persons, and they may be from inside or outside the institution. Individuals appointed to the investigation committee may also have served on the inquiry committee.

The research integrity officer will notify the respondent of the proposed committee membership within five working days. If the respondent submits a written objection to any appointed member of the investigation committee or expert, the research integrity officer will determine whether to replace the challenged member or expert with a qualified substitute.

D. Charge to the Committee and the First Meeting

1. Charge to the Committee

The research integrity officer will define the subject matter of the investigation in a written charge to the committee that describes the allegations and related issues identified during the inquiry, defines scientific misconduct, and identifies the name of the respondent. The charge will state that the committee is to evaluate the evidence and testimony of the respondent, complainant, and key witnesses

to determine whether, based on a preponderance of the evidence, scientific misconduct occurred and, if so, to what extent, who was responsible, and its seriousness.

During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or would suggest additional respondents, the committee will notify the research integrity officer, who will determine whether it is necessary to notify the respondent of the new subject matter or to provide notice to additional respondents.

2. The First Meeting. The research integrity officer, with the assistance of institutional counsel, will convene the first meeting of the investigation committee to review the charge, the inquiry report and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The investigation committee will be provided with a copy of these instructions and, where PHS funding is involved, the PHS regulation.

E. Investigation Process

The investigation committee will be appointed and the process initiated within 30 days of the completion of the inquiry, if findings from that inquiry provide a sufficient basis for conducting an investigation.

The investigation will normally involve examination of all documentation including, but not necessarily limited to, relevant research records, computer files, proposals, manuscripts, publications, correspondence, memoranda, and notes of telephone calls. Whenever possible, the committee should interview the complainant(s), the respondent(s), and other individuals who might have information regarding aspects of the allegations. Interviews of the respondent should be tape recorded or transcribed. All other interviews should be transcribed, tape recorded, or summarized. Summaries or transcripts of the interviews should be prepared, provided to the interviewed party for comment or revision, and included as part of the investigatory file.

VIII. The Investigation Report

A. Elements of the Investigation Report. The final report submitted to ORI must describe the policies and procedures under which the investigation was conducted, describe how and from whom information relevant to the investigation was obtained, state the findings, and explain the basis for the findings. The report will include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct as well as a description of any sanctions imposed and administrative actions taken by the institution.

B. Comments on the Draft Report

1. Respondent. The research integrity officer will provide the respondent with a copy of the draft investigation report for comment and rebuttal. The respondent will be allowed 30 days to review and comment on the draft report. The respondent's comments will be attached to the final report. The findings of the final report should take into account the respondent's comments in addition to all the other evidence.

2. Complainant. The research integrity officer will provide the complainant, if he or she is identifiable, with those

portions of the draft investigation report that address the complainant's role and opinions in the investigation. The report should be modified, as appropriate, based on the complainant's comments.

3. Institutional Counsel. The draft investigation report will be transmitted to the institutional counsel for a review of its legal sufficiency. Comments should be incorporated into the report as appropriate.

4. Confidentiality. In distributing the draft report, or portions thereof, to the respondent and complainant, the research integrity officer will inform the recipient of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality. For example, the research integrity officer may request the recipient to sign a confidentiality statement or to come to his or her office to review the report.

C. Institutional Review and Decision

Based on a preponderance of the evidence, the deciding official will make the final determination whether to accept the investigation report, its findings, and the recommended institutional actions. If this determination varies from that of the investigation committee, the deciding official will explain in detail the basis for rendering a decision different from that of the investigation committee in the institution's letter transmitting the report to ORI. The deciding official's explanation should be consistent with the PHS definition of scientific misconduct, the institution's policies and procedures, and the evidence reviewed and analyzed by the investigation committee. The deciding official may also return the report to the investigation committee with a request for further fact-finding or analysis. The deciding official's determination, together with the investigation committee's report, constitutes the final investigation report for purposes of ORI review.

When a final decision on the case has been reached, the research integrity officer will notify both the respondent and the complainant in writing. In addition, the deciding official will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case. The research integrity officer is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

D. Transmittal of the Final Investigation Report to ORI. After comments have been received and the necessary changes have been made to the draft report, the investigation committee should transmit the final report with attachments, including the respondent's and complainant's comments, to the Deciding Official, through the research integrity officer.

E. Time Limit for Completing the Investigation Report. An investigation should ordinarily be completed within 120 days of its initiation, with the initiation being defined as the first meeting of the investigation committee. This includes conducting the investigation, preparing the report of findings, making the draft report available to the subject of the investigation for comment, submitting the report to the

deciding official for approval, and submitting the report to the ORI.

IX. Requirements for Reporting to ORI

A. An institution's decision to initiate an investigation must be reported in writing to the Director, ORI, on or before the date the investigation begins. At a minimum, the notification should include the name of the person(s) against whom the allegations have been made, the general nature of the allegation as it relates to the PHS definition of scientific misconduct, and the PHS applications or grant number(s) involved. ORI must also be notified of the final outcome of the investigation and must be provided with a copy of the investigation report. Any significant variations from the provisions of the institutional policies and procedures should be explained in any reports submitted to ORI.

B. If an institution plans to terminate an inquiry or investigation for any reason without completing all relevant requirements of the PHS regulation, the Research Integrity Officer will submit a report of the planned termination to ORI, including a description of the reasons for the proposed termination.

C. If the institution determines that it will not be able to complete the investigation in 120 days, the research integrity officer will submit to ORI a written request for an extension that explains the delay, reports on the progress to date, estimates the date of completion of the report, and describes other necessary steps to be taken. If the request is granted, the research integrity officer will file periodic progress reports as requested by the ORI.

D. When PHS funding or applications for funding are involved and an admission of scientific misconduct is made, the Research Integrity Office will contact ORI for consultation and advice. Normally, the individual making the admission will be asked to sign a statement attesting to the occurrence and extent of misconduct. When the case involves PHS funds, the institution cannot accept an admission of scientific misconduct as a basis for closing a case or not undertaking an investigation without prior approval from ORI.

E. The research integrity officer will notify ORI at any stage of the inquiry or investigation if:

1. there is an immediate health hazard involved;
2. there is an immediate need to protect Federal funds or equipment;
3. there is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates, if any;
4. it is probable that the alleged incident is going to be reported publicly; or
5. the allegation involves a public health sensitive issue, e.g., a clinical trial; or
6. there is a reasonable indication of possible criminal violation. In this instance, the institution must inform ORI within 24 hours of obtaining that information.

X. Institutional Administrative Actions

Louisiana Office of Public Health will take appropriate administrative actions against individuals when an allegation of misconduct has been substantiated.

If the Deciding Official determines that the alleged misconduct is substantiated by the findings, he or she will decide on the appropriate actions to be taken, after consultation with the research integrity officer. The actions may include:

1. withdrawal or correction of all pending or published abstracts and papers emanating from the research where scientific misconduct was found;
2. removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;
3. restitution of funds as appropriate.

XI. Other Considerations

A. Termination of Institutional Employment or Resignation Prior to Completing Inquiry or Investigation

The termination of the respondent's institutional employment, by resignation or otherwise, before or after an allegation of possible scientific misconduct has been reported, will not preclude or terminate the misconduct procedures.

If the respondent, without admitting to the misconduct, elects to resign his or her position prior to the initiation or an inquiry, but after an allegation has been reported, or during an inquiry or investigation, the inquiry or investigation will proceed. If the respondent refuses to participate in the process after resignation, the committee will use its best efforts to reach a conclusion concerning the allegations, noting in its report the respondent's failure to cooperate and its effect on the committee's review of all the evidence.

B. Restoration of the Respondent's Reputation. If the institution finds no misconduct and ORI concurs, after consulting with the respondent, the research integrity officer will undertake reasonable efforts to restore the respondent's reputation. Depending on the particular circumstances, the research integrity officer should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in forums in which the allegation of scientific misconduct was previously publicized, or expunging all reference to the scientific misconduct allegation from the respondent's personnel file. Any institutional actions to restore the respondent's reputation must first be approved by the Deciding Official.

C. Protection of the Complainant and Others. Regardless of whether the institution or ORI determines that scientific misconduct occurred, the research integrity officer will undertake reasonable efforts to protect complainants who made allegations of scientific misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations. Upon completion of an investigation, the Deciding Official will determine, after consulting with the complainant, what steps, if any, are needed to restore the position or ORI reputation of the complainant. The research integrity officer is responsible for implementing any steps the Deciding Official approves. The research integrity officer will also take appropriate steps during the inquiry and investigation to prevent any retaliation against the complainant.

D. Allegations not made in Good Faith. If relevant, the

Deciding Official will determine whether the complainant's allegations of scientific misconduct were made in good faith. If an allegation was not made in good faith, the Deciding Official will determine whether any administrative action should be taken against the complainant.

E. Interim Administrative Actions. Institutional officials will take interim administrative actions, as appropriate, to protect federal funds and ensure that the purposes of the federal financial assistance are carried out.

XII. Record Retention

After completion of a case and all ensuing related actions, the research integrity officer will prepare a complete file, including the records of any inquiry or ORI investigation and copies of all documents and other materials furnished to the research integrity officer or ORI committees. The research integrity officer will keep the file for three years after completion of the case to permit later assessment of the case. ORI or other authorized DHHS personnel will be given access to the records upon request.

In accordance with the policies and procedures of the OPH-ORI the state health officer will serve as the deciding official. Also in accordance with the policies and procedures of the OPH-ORI the state health officer will appoint the research integrity officer, who will serve as such until he or she is relieved of that responsibility by the state health officer. The research integrity officer will be an official of OPH, who is well qualified to handle the procedural requirements involved and is sensitive to the varied demands made on those who conduct research, those who are accused of misconduct, and those who report in good faith apparent misconduct.

Bobby P. Jindal
Secretary

9605#052

RULE

Department of Health and Hospitals Office of Public Health

Institutional Review Board for Human Subjects

There is established within the Office of Public Health (OPH) the Institutional Review Board for Human Subjects (IRB). Each member of this IRB shall be appointed by the state health officer, and shall serve until removed by the state health officer, or upon the resignation of the member from the appointed position on the IRB. Herewith are appointed the following persons:

from the Office of Public Health—at least five persons, one of whom will serve as chair of the board;

from the New Orleans Aids Task Force—at least one person, who will serve as the community representative.

In accord and compliance with Title 45, Code of Federal Regulations, Part 46, revised June 18, 1991 and Public Law 99-158 of 1985, the Public Health Service Act, as amended by the Health Research Extension Act of 1985, the following summarizes the guidelines used and complied with by the OPH - IRB:

Research activities considered for approval by the OPH - IRB will be accomplished whether or not funding is to be provided by any federal department or agency, but is to be provided or participated in, as part of official public health work, by any employee of OPH or, for the specific purposes of accomplishing the research activities, any contractee of OPH.

Ethical considerations will be made by the IRB in considering its approval in accord with the above-cited law and code in regard, but not limited, to:

- protection of human subjects from harmful research risks;
- protection of the privacy and confidentiality of human subjects;
- protection of the known rights and welfare of human subjects;
- fetal research.

Further,

1. the procedures of the OPH - IRB will not conflict with and will be in accord and compliance with the provisions of the "Rules and Procedures on Disclosures of Medical Information" of the Department of Health and Hospitals, Policy No. 0008-79, as revised September 25, 1990 and December 19, 1991; and

2. the procedures of the OPH - IRB will not conflict with and will be in accord and compliance with the provisions of Louisiana Revised Statutes 40:41(D), as amended by the 1983 session of the state legislature, providing for the disclosure of vital records for public health research purposes, and the rules therefore, as promulgated in the *Louisiana Register*, Volume 15, Number 6, June 20, 1989.

Bobby P. Jindal
Secretary

9605#051

RULE

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

Leave of Absence—Intermediate Care Facility Services for the Handicapped and/or Mentally Retarded

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule, under the Medical Assistance Program, as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, utilization review, and other measures as allowed by federal law". This rule is in accordance with the provision 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 provides payments to ICF/MR facilities for leave of absence days as follows.

1) Beds are reserved for up to five days per hospitalization for treatment of an acute condition.

2) Beds are reserved for up to 45 days per state fiscal year for other leave days with a 14-day limit per temporary absence per recipient when permitted by the recipient's plan of care. Leave days for the following purposes shall be limited to 14 days per occurrence and shall be excluded from the annual 45-day limitation:

1. Special Olympics;
2. Roadrunner sponsored events;
3. Louisiana planned conferences;
4. trial discharge leaves.

Bobby P. Jindal
Secretary

9605#047

RULE

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

Leave of Absence—Nursing Facility Residents

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule, under the Medical Assistance Program, as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, utilization review, and other measures as allowed by federal law". This rule is in accordance with the provision 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 provides payments to nursing facilities for leave of absence days as follows.

1. Beds are reserved for up to five days per hospitalization for treatment of an acute condition.

2. Beds are reserved up to nine days per calendar year for other leave days.

Bobby P. Jindal
Secretary

9605#048

RULE

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

Medicaid Eligibility Manual

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has 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. 49:950 et seq.

Rule

The Bureau of Health Services Financing adopts the state and federal requirements and procedures governing the determination of eligibility of persons applying for coverage under Title XIX of the Social Security Act which are incorporated in the Medicaid Eligibility Manual, including interim policy guidelines adopted herein. The Medicaid Eligibility Manual contains the following sections:

- A) Abbreviations/Acronyms/Definition- Outline;
- B) Introduction - Outline;
- C) Medical Services - Outline;
- D) Persons Eligible - Outline;
- E) Category - Outline;
- F) Medical Programs - Outline;
- G) Application Process - Outline;
- H) Eligibility Determinations;
- I) Eligibility Outline - Factors;
- J) Issuing Medical Eligibility Cards;
- K) Redeterminations;
- L) Changes - Outline;
- M) Transfer - Outline;
- N) Special Processing - Outline;
- O) Prior Authorization - Outline;
- P) Third Party Liability - Outline;
- Q) Inquiries and Complaints - Outline;
- R) Reserved;
- S) Verification and Documentation - Outline;
- T) Fair Hearings - Outline;
- U) Fraud and Recovery;
- Z) Charts - Outline.

The full text of the Medicaid Eligibility Manual may be obtained from the Department of Health and Hospitals, Bureau of Health Services Financing or the Office of the State Register for \$256.50. Reference the document number 9605#040.

Bobby P. Jindal
Secretary

9605#040

RULE

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

Medicaid Estate Recovery

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule as authorized by R.S. 46:153(G) and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements the Medicaid Estate Recovery Program in accordance with the requirements of the Social Security Act and federal regulations. The Bureau of Health Services Financing shall seek recovery of Medicaid payments for nursing facility services, home and community-based services, and related hospital and prescription drug services from the estate of an individual who was 55 or older when such services were received.

I. Definitions

A. Estate. Shall be understood to be the gross estate of the deceased as determined by Louisiana succession law.

B. Cost effectiveness. The process whereby the Medicaid agency balances and weighs that which it may reasonably expect to recover, against the time and expense of recovery. Application of the provision will be deemed to be cost effective when the amount reasonably expected to be recovered exceeds the cost of recovery and the amount reasonably expected to be recovered is greater than \$500.

C. Undue Hardship. An undue hardship exists when application of the provision would result in placing an unreasonable burden on a surviving spouse and/or a dependent. An undue hardship may exist when:

1. the estate is the sole income producing asset of the surviving spouse and/or dependent, and income from the estate is limited;

2. recovery would necessitate the surviving spouse and/or dependent becoming eligible to receive public assistance, including but not limited to Medicaid;

3. any other compelling circumstances that would result in placing an unreasonable financial burden on the surviving spouse and/or dependent.

An undue hardship does not exist if the circumstances giving rise to the hardship were created by, or are the result of estate planning methods under which assets were sheltered or divested in order to avoid estate recovery.

D. Dependent. By dependent is meant any of the following individuals for whom the decedent provided more than one-half of his or her support during the immediate 12 months prior to the death of the decedent: the decedent's:

a. son, daughter, step-son, step-daughter or a descendent thereof;

b. brother or sister, whether by blood or marriage, or a decedent thereof;

c. father, mother, step-mother, step-father, or sibling or ancestor thereof;

d. son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the decedent.

II. General Provisions

A. Medicaid estate recovery is not a condition of eligibility. The applicant/recipient shall be informed at the time of application/redetermination that federal law and regulations mandate estate recovery action by the states and that medical assistance claims paid by the Bureau of Health Services Financing may be subject to estate recovery.

B. Recovery Limitations

1. Recovery can only be made after death of the individual's surviving spouse, if any, and only at the time when the individual has no surviving child under age 21, or a child blind or disabled as defined in Section 1614 of the Social Security Act.

2. Recovery from home property can only be made when a) there is no sibling of the individual residing in the home, who has resided there for at least one year immediately before the date of the individual's admission to the institution, and has resided there on a continuous basis since that time, and b) there is no son or daughter of the individual residing in the home, who resided there for at least two years immediately before the date of individual's admission to the institution, has resided there on a continuous basis since that time, and is able to establish that he/she provided care which permitted the individual to reside at home rather than in an institution.

C. Recovery may be waived in cases in which it is not cost-effective for the state to recover from the individual's estate.

D. Recovery Notice. Individuals from whom recovery for medical assistance will be sought by the Bureau of Health Services Financing will be given advance notice of the proposed action and the time frames in which they have the opportunity to apply for an undue hardship waiver.

The notice will be served on the executor or legally authorized representative of the individual's estate. If there is no executor or legally authorized representative, the notice will be sent to the family or the heirs. The notice shall also specify the following information:

1. the affected recipient's name, Social Security Number and recipient number;
2. the action the state intends to take;
3. the reason for the action;
4. the individual's right to a hearing;
5. the method by which the individual may obtain such a hearing;
6. the time periods involved in requesting a hearing or in exercising any procedural requirements under the Medicaid Estate Recovery Program;
7. the right to and procedure for applying for a hardship waiver;
8. the dates of service associated with the recovery action and the amount of the bureau's claim, i.e., amount to be recovered against the recipient's estate.

The notice will request that the following information be provided to bureau:

1. copies of all state and federal estate tax returns prepared and/or filed in connection with the succession of the decedent;

2. copies of all succession pleadings filed in connection with the succession of the decedent, including any judgement or judgments of possession;

3. in the event no state or federal estate tax return has been filed or prepared and/no succession has been judicially opened, the bureau is to be advised as to when such documents will be available and/or when the succession is expected to be opened.

III. Administrative Review of Agency Decisions

Any aggrieved party may request that the agency review and reconsider any or all aspects of the particular recovery matter in which they are involved. This request must be made within 20 days of the receipt of the notice of the agency's claim for recovery. If such a request is timely made, the agency shall review the matter and shall review and consider any facts or documentation presented or forwarded to it in connection therewith. In addition to this informal reconsideration, any aggrieved party shall have the administrative appeal rights available pursuant to the Louisiana Administrative Procedure Act.

Bobby P. Jindal
Secretary

9605#049

RULE

Department of Public Safety and Corrections Board of Private Security Examiners

Continuing Education (LAC 46:LVII.518)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 37:3505B(1), the Department of Public Safety and Corrections, Board of Private Investigators Examiners, has amended Part LVII of LAC Title 46, by adding Chapter 5, Section 518 pertaining to continuing education requirements of renewal of licenses of private investigators.

This rule and regulation is an amendment to the initial rules and regulations promulgated by the Board of Private Investigator Examiners.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LVII. Private Investigator Examiners

Chapter 5. Application, Licensing, Training, Registration and Fees

§518. Continuing Education

A. Each licensed private investigator is required to complete a minimum of eight hours of approved investigative educational instruction within the one-year period

immediately prior to renewal in order to qualify for a renewal license.

B. Each licensed private investigator is required to complete and return the LSBPIE Continuing Educational Compliance form with the request for license renewal each year. The form shall be signed under penalty of perjury and shall include documentation of each hour of approved investigation educational instruction completed.

C. Any licensee who wishes to apply for an extension of time to complete educational instruction requirements must submit a letter request setting forth reasons for the extension request to the Executive Secretary of the LSBPIE 30 days prior to license renewal. The Training Committee shall rule on each request. If an extension is granted, the investigator shall be granted 30 days to complete the required hours. Hours completed during a 30-day extension shall only apply to the previous year.

D. These requirements became effective on January 1, 1996; and continuing education forms will be required on all 1997 renewals and thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505B(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 22:371(May 1996).

Gary Hyatt
Chairman

9605#035

RULE

Department of Transportation and Development Weights, Measures and Standards

Violation Review Committee (LAC 73:I.Chapter 11)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development has adopted a rule in accordance with Act 429 of the 1995 Regular Session of the Louisiana Legislature.

Title 73

WEIGHTS, MEASURES AND STANDARDS

Part I. Weights and Standards

Chapter 11. Violation Ticket Review Committee

§1101. Composition of Violation Ticket Review Committee

- A. One representative of the DOTD Maintenance Section.
- B. One representative of the DOTD Legal Section.
- C. One designee of the chief engineer or the chief, Maintenance Division.
- D. The chairman of the committee is the chief, Maintenance Division, or his designee.
- E. The Weights and Standards Enforcement and Vehicle Permits administrator or his designee shall be a nonvoting member.

F. Three of four voting members present are a quorum.

AUTHORITY NOTE: Promulgated in accordance with Act 429 of the 1995 Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996).

§1103. Tickets Subject to Review

A. All tickets recognized to contain mathematical error or obvious legal error; or

B. All tickets formally protested (in writing).

AUTHORITY NOTE: Promulgated in accordance with Act 429 of the 1995 Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996).

§1105. Time Limitations

A. Payment of the fine imposed by a violation ticket is due within 30 days from the date of issuance of the ticket.

B. To receive consideration, a violation ticket must be formally protested within 60 days from the date of issuance of the ticket.

C. The Violation Ticket Review Committee must dispense with tickets within 30 working days from receipt of the request for review.

D. The Weights and Standards Enforcement and Vehicle Permits Administrator must report to the protestor within seven working days from the committee's decision. Said report shall fully inform the protestor of the decision of the committee.

AUTHORITY NOTE: Promulgated in accordance with Act 429 of the 1995 Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996).

§1107. Duties of Weights and Standards Enforcement and Vehicle Permits Administrator

A. Receive and assemble all formally protested violation tickets for review.

B. Investigate the circumstances surrounding all violation tickets formally submitted for review.

C. Communicate with the protestor during the process and after the decision of the committee.

AUTHORITY NOTE: Promulgated in accordance with Act 429 of the 1995 Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996).

§1109. Authorized Action

The Violation Ticket Review Committee is authorized to void or reduce violation tickets, or leave violation tickets intact.

AUTHORITY NOTE: Promulgated in accordance with Act 429 of the 1995 Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996).

§1111. Rights of Protesting Party

A. These rules do not impair the right of the protesting party to sue the department to recover payment of the violation ticket as provided in R.S. 32:389.

B. The protesting party will not be afforded the opportunity to personally appear before the Violation Ticket Review Committee. Only his written statement will be considered.

AUTHORITY NOTE: Promulgated in accordance with Act 429 of the 1995 Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996).

§1113. Prescription

A. The running of prescription for collection of unpaid violation tickets is not interrupted by filing of the protest.

B. The running of prescription for suing the department to recover monies paid for a violation ticket is not interrupted by filing of the protest.

AUTHORITY NOTE: Promulgated in accordance with Act 429 of the 1995 Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:373 (May 1996).

§1115. Reconsideration

The decision of the Violation Ticket Review Committee may be reconsidered one time, either upon request of the protestor or upon motion of a member of the Violation Ticket Review Committee. Additional information must be provided at second review.

AUTHORITY NOTE: Promulgated in accordance with Act 429 of the 1995 Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:373 (May 1996).

§1117. Record-Keeping

All actions of the Violation Ticket Review Committee shall be recorded on computer and reported to the DOTD Financial Services Section. All records shall be maintained in accordance with the Public Records Law.

AUTHORITY NOTE: Promulgated in accordance with Act 429 of the 1995 Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:373 (May 1996).

Frank M. Denton
Secretary

9605#016

RULE

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

Codification and Amendment of
Rules (LAC 58:I.Chapters 1-29)

The Department of the Treasury, Board of Trustees of the State Employees' Retirement System ("LASERS") hereby amends its rules revising LAC 58:I.Chapters 1-29. These rule amendments codify existing rules into the Louisiana Administrative Code and make other updates.

These rules comply with statutory law administered by LASERS and are enabled by R.S. 11:515.

The rules may be obtained at the Office of the State

Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802, at a cost of \$15. Please refer to document number 9605#036 when requesting these rules.

No preamble regarding these proposed rules is available.

James O. Wood
Executive Director

9605#036

RULE

**Department of Wildlife and Fisheries
Office of Fisheries**

Commercial Fisherman's Sales Report Form
(LAC 76:VII.203)

The secretary of the Department of Wildlife and Fisheries hereby amends the full implementation date of the Commercial Fisherman's Sales Report Forms from January 1, 1996 to January 1, 1998.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 2. General Provisions

§203. Commercial Fisherman's Sales Report Form

* * *

D. The effective date of this Section is January 1, 1998.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:345(B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:82 (January 1992), repromulgated LR 18:198 (February 1992), amended LR 20:323 (March 1994), amended by the Office of Fisheries, LR 21:477 (May 1995), LR 22:373 (May 1996).

James H. Jenkins, Jr.
Secretary

9605#024

RULE

**Department of Wildlife and Fisheries
Office of Fisheries**

Dealer Receipt Form (LAC 76:VII.201)

The secretary of the Department of Wildlife and Fisheries hereby amends the full implementation date of the Dealer Receipt Forms from January 1, 1996 to January 1, 1998.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 2. General Provisions

**§201. Commercial Fisherman's Sales Card; Dealer
Receipt Form**

* * *

F. Effective date of Subsections A and B of this Section is upon publication in the *Louisiana Register*. Effective date for

Subsections C, D and E of this Section will be January 1, 1998.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:303.7 and 306.4(E).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:81 (January 1992), repromulgated LR 18:198 (February 1992), amended LR 20:323 (March 1994), amended by the Office of Fisheries, LR 21:477 (May 1995), LR 22:373 (May 1996).

James H. Jenkins, Jr.
Secretary

9605#025

RULE

Department of Wildlife and Fisheries Office of Fisheries

Freshwater Mussel Harvest (LAC 76:VII.161)

The secretary of the Department of Wildlife and Fisheries hereby amends 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. Permits

1. In addition to a commercial fishing license, all mussel harvesters must obtain a mussel harvester's permit issued by the department prior to initiation of harvesting. No person shall harvest or participate in the harvest of freshwater mussels unless that person is in possession of proper licenses and permits.

2. The secretary of the department shall have the authority to limit the number of mussel harvester permits, cease issuance of new permits, or close the season entirely if it is deemed necessary to protect the mussel resource.

3. In addition to a wholesale/retail dealer's license, all mussel buyers must obtain a mussel buyer's permit issued by the department. The buyer shall file a surety bond by a surety company licensed to do business in this state in the sum of \$5,000 with the department at the time of license purchase. Bond shall be forfeited if buyer fails to adhere to all rules and regulations and reporting requirements.

4. Mussel harvester and buyer permits shall not be issued to any applicant who has been convicted of any mussel-related offense in any state within the United States within the past five years.

B. Fees

1. An annual permit fee of \$100 for resident mussel fishermen and \$1,000 for nonresident mussel fishermen will accompany the permit application. These fees will be

applicable for one calendar year. A calendar year is defined as January 1 through December 31. If the permit application is disapproved, the fees will be refunded to the applicant.

2. An annual permit fee of \$150 for resident mussel buyers and \$600 for nonresident mussel buyers will accompany the permit application. These fees will be applicable for one calendar year. If the permit application is disapproved, the fees will be refunded to the applicant.

C. Gear

1. Mussels shall be harvested by hand only, with or without underwater breathing apparatus. All divers must display a proper dive flag. Mussel harvest activities shall not impede boating activities or navigation.

2. A mussel harvester on state waters, and in possession of mussel harvesting gear, must be properly licensed and permitted. All persons aboard any vessel possessing mussel harvesting gear in state waters must be properly licensed and permitted.

D. Species for Harvest

1. Only the following taxa may be legally harvested:

washboard	<i>Megaoloniaias nervosa</i>
pimpleback	<i>Quadrula spp.</i>
three ridge	<i>Amblema plicata</i>
bleufer	<i>Potamilus (Proptera) purpuratus</i>
Asian clam	<i>Corbicula fluminea</i>

2. Only specimens equal to or larger than the following minimum sizes shall be harvested:

washboard	4 inches
three ridge and bleufer	3 inches
pimpleback	2 3/4 inches
Asian clam	no size limit

Minimum size will be measured by passing the specimen through a ring or appropriate circular measuring device so designed as to allow undersized mussels to pass through the opening. There is no allowance for undersized shell. All mussels must be sized (graded) immediately after each dive and undersized shell returned to the mussel bed before the harvester moves his boat or begins another dive. All mussels harvested shall be removed from the water daily during daylight hours only. All mussels harvested must be sold on a daily basis; mussels may not be stored in the water after sunset.

3. 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 actions to prevent the spread of zebra mussels.

E. Timing of Harvest

1. Mussels may be harvested from May 20 through September 30 between official sunrise and official sunset; except that harvest of mussels will be closed on national holidays (Memorial Day, July Fourth and Labor Day) and Saturdays and Sundays of each week.

2. Possession of mussels between official sunset and official sunrise in any state waterbody is prohibited.

F. Areas Open to Harvest

1. Unless otherwise stated, all publicly owned water bottoms in Louisiana outside of officially recognized saltwater areas (R.S. 56:322(A) and 322(B)) are open to harvest.

2. Because of the presence of threatened or endangered species of mussels, mussel harvest and possession of mussels is prohibited in the following areas:

a. Amite River and any tributary within one-half mile of the main channel of the Amite River from the junction with Bayou Manchac to the Mississippi state line;

b. all of Rapides and Grant Parishes, including all boundary waters of both parishes, except the main channel of the Red River;

c. Bayou Bartholomew and any tributary within one-half mile of the main channel of Bayou Bartholomew in Morehouse Parish, from the Arkansas-Louisiana state line to its confluence with the Ouachita River;

d. Rodney Lake (Tensas Parish).

3. Other areas closed to commercial mussel harvest include:

a. Tensas National Wildlife Refuge, including all border waters.

b. Cocodrie Bayou National Wildlife Refuge including all border waters.

c. Fort Polk Military Reservation.

d. Peason Ridge Military Reservation.

e. Bayou Macon and any tributary within one-half mile of Bayou Macon from La. Highway 2 north to the Louisiana/Arkansas state line.

f. Lake Bruin

g. Additional areas may be closed by the secretary of the department if deemed necessary to protect local mussel populations.

h. Permits issued by the Wildlife Division are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou Wildlife Management Areas (WMAs). Commercial fishing is prohibited on Salvador and Ouachita WMA s.

G. Reporting

1. Commercial mussel buyers must compute and pay a severance tax of 5 percent of the revenue 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). Mussel buyers will ensure that severance tax forms are filled out completely prior to submission to the department; failure to do so will result in a Class 3 violation and revocation of mussel buyers permits. Buyers must retain such receipts for inspection by the department for a period of not less than two years. Written notification of changes and reporting requirements sent by the department to commercial buyers shall become part of the buyer's permit and must be maintained by the buyer along with the permit. Shipping bills of lading must also accompany severance tax receipts and payments each month. All severance tax report forms and payments must be received by the department no later than the fifteenth day of the month following the month of severance.

2. Harvesters are required to submit monthly reports on forms furnished by the department whether they fished or not.

These reports must be postmarked no later than the fifteenth day of the month following the month of harvest.

3. Mussel buyers must contact the department either in the region where they will be conducting buying operations, or at the department's toll-free telephone number, and provide information as to which site these operations are to be set up. This notification is to be made on the day previous to setting up these operations. The buyer must also notify the department within 24 hours when buying activities at that location have been completed. Mussel buyers may not conduct buying activities outside of designated and/or approved sites.

4.a Mussel buyers are limited to setting up buying operations at department approved sites in or nearby to these cities:

- i. Bogalusa
- ii. Columbia
- iii. Coushatta
- iv. Delhi
- v. Kinder
- vi. Ferriday
- vii. Leesville
- viii. Livingston
- ix. Minden
- x. Port Barre
- xi. Ramah
- xii. Simmesport
- xiii. Tioga

b. Additional buyer's sites may be set up at department discretion to facilitate harvest.

5. Each permittee harvesting mussels for sale is responsible for department notification. The permittee shall notify the department at a designated phone number (1-800-442-2511) at least four hours prior to harvesting any mussels. The permittee shall provide, at the time of notification, the parish and area to be fished each day. The permittee will be given a confirmation number at the time of initial notification.

6. Each permittee must again notify the department at 1-800-442-2511 immediately prior to selling any mussels. The permittee must report their confirmation number and the name and mussel buyer's permit number of the individual who will be purchasing mussels obtained under the permit.

H. Special Restrictions

1. Meats shall not be used or sold for human consumption.

2. Mussels shall be transferred whole (unopened with meat) from the collection site directly to an in-state buyer for processing. Whole mussels may not be taken out of state. The harvest of dead shell is strictly prohibited.

3. Buyer must open mussels and render meats unsuitable for human consumption in state, then dispose of meats as per Department of Environmental Quality regulations for disposal of solid waste.

4. Mussel buyers in the act of transporting mussels in-state must have legibly printed letters stating "MUSSELS" no less than 4 inches in height on both sides of all transport vehicles and vessels.

5. Mussels or shells collected outside of Louisiana by a resident or nonresident mussel harvester shall not be sold in

Louisiana. Mussel buyers shall not purchase or possess mussels or shells taken from waters outside of Louisiana.

I. Penalties. Failure to abide by the above rules shall result in revocation of permit and forfeiture of future permits for a five-year period after which issuance or denial of a permit will be at the discretion of the secretary of the department. This shall be in addition to all applicable criminal statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:450.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 19:510 (April 1993), amended LR 21:193 (February 1995), LR 22:374 (May 1996).

James H. Jenkins, Jr.
Secretary

9605#026

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Eagle Lake Black Bass (LAC 76:VII.169)

The Wildlife and Fisheries Commission hereby amends the following rule on black bass (*Micropterus spp.*) on Eagle Lake located east of the Mississippi River in Madison Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§169. Black Bass Regulations, Eagle Lake

The size regulation for black bass (*Micropterus spp.*) on Eagle Lake located east of the Mississippi River in Madison Parish, Louisiana is as follows:

It shall be unlawful to take or possess, while on the water or while fishing in the water, black bass less than 14 inches total length on Eagle Lake, located east of the Mississippi River in Madison Parish, Louisiana. This rule will expire at midnight, December 31, 1998.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325(C), 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 19:909 (July 1993), amended LR 21:477 (May 1995), LR 22:376 (May 1996).

Glynn Carver
Chairman

9605#023

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Board of Ethics for Elected Officials

Purchases by Small Municipalities

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Board of Ethics for Elected Officials intends to adopt rules, as required by R.S. 42:1123(22), which affect municipalities having a population of 1,500 or less.

The rules will have no economic impact or fiscal impact on the budget of the state and no fees are involved. No preamble to the proposed rules has been prepared.

Proposed Rule

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

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

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

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

4. For transactions in excess of \$250 but less than \$2,500, telephone quotations with written confirmation or facsimile quotations must be solicited from at least three vendors within the municipality, the parish, or within a 50 mile radius of the municipality. However, in the case of an "emergency" no quotations shall be required so long as the elected official recuses himself or herself from the transaction and files an affidavit as required in Rule Number 1, above, within three days of the occurrence of the transaction. *Emergency* shall be defined in the plan adopted by the municipality and subject to board approval.

5. In the case of a transaction in excess of \$250 but less than \$2,500, if the quotation submitted by the elected official

or legal entity in which the elected official has a controlling interest is the lowest received by the municipality the transaction is allowed. The plan adopted by the municipality and subject to board approval may specify situations in which a quotation submitted by the elected official or his or her legal entity may be accepted even if it was not the lowest received by the municipality.

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

Interested persons may direct their comments to Maris LeBlanc McCrory, Board of Ethics for Elected Officials, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809; or by telephone at (504) 922-1400, until June 10, 1996.

R. Gray Sexton
Executive Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Purchases Small Municipalities**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Administrative costs will be incurred by state and local government that should be absorbed within existing budgets. Local governments may experience some savings.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Persons which may be affected by the proposed action include competitors of businesses owned by the elected officials in the affected municipalities. If those businesses do not offer a lower price than that offered by the elected official they could lose sales. It is impossible for this agency to assign a dollar amount to such transactions.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed action could increase competition in that an additional company could seek to do business with the municipality.

R. Gray Sexton
Executive Secretary
9506#027

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Civil Service
Civil Service Commission**

Compensation (Civil Service Rule 1.9.02)

The State Civil Service Commission will hold a public hearing on Wednesday, June 5, 1996 to consider the proposed amendment to Civil Service Rule 1.9.02. The public hearing will begin at 9 a.m. in the Commission Hearing Room at the Department of State Civil Service, Second Floor, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana.

Consideration will be given to the following:

1.9.02

Compensation means any salary, wages, fees, special pay considerations, or any other cash payment directly to an employee as a result of service rendered in any position. It shall not include reimbursement for travel incurred as a result of the performance of official duties, nor shall it include the assignment or utilization of automobiles, houses, or other property, exclusive of cash payments directly to an employee as a result of service rendered, belonging to the state or any other governmental entity.

Explanation

The purpose of this amendment is to show that the definition of compensation to be regulated by the Civil Service Commission does not include automobiles or houses assigned to and utilized by employees.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to: Director of State Civil Service, at Box 94111, Baton Rouge, LA 70804-9111.

If any accommodations are needed, please notify us prior to this meeting.

Allen H. Reynolds
Acting Director

9605#038

NOTICE OF INTENT

**Department of Economic Development
Boxing and Wrestling Commission**

**Amend Existing Rules (LAC 46:XI.Chapters 1-3)
Repeal of Rules (LAC 46:XI.Chapter 7)**

The Department of Economic Development, State Boxing and Wrestling Commission, under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 4:61, hereby gives notice that it proposes to amend Chapters 1 and 3 and repeal Chapter 7 of its existing rules.

The purpose of these amendments is to update the existing rules and provide for such matters as AIDS testing, the wearing of surgical gloves, female boxing and refinements and clarifications in the methods of refereeing and judging.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XI. Boxing and Wrestling

Chapter 1. General Rules

- §101. Definitions
- §102. Annual License Fees
- §103. Insulting or Abusive Remarks
- §105. Conflict of Interest
- §107. Use of Drugs
- §109. Concealment of Disability
- §111. Promoters in Cities of 250,000 or More; Duty to Promote Events
- §113. Financial Reports

Chapter 3. Professional Boxing

- §301. Commission Demands
- §303. Permit
- §305. Contestant
- §307. Weights and Classes
- §309. Recommended Weight Differences
- §311. Official Weighing In
- §313. Contestants Apparel and Physical Appearance
- §315. Judges and Referees
- §317. Judging Methods and Procedures
- §318. Rounds, Duration and Intermission
- §319. Permissible Items in Boxer's Corner
- §320. Boxing Ring and Ropes
- §321. Fouls Deductions of Points Because of a Foul and Accidental Fouling
- §322. Gloves
- §323. Bell or Gong
- §325. Physician
- §326. Ringside Physicians
- §327. Timekeeper
- §329. Promoters and Matchmakers
- §330. Sanctioned Events
- §331. Announcer
- §333. Manager
- §337. Safety
- §339. Withholding
- §341. Seconds
- §343. Charity Events
- §345. Termination of Bouts
- §347. Presence in Dressing Rooms
- §349. Tickets and Sale of Tickets
- §351. Unauthorized Matchmaker, Promoters, Managers

Chapter 5. Professional Wrestling

* * *

Chapter 7. Amateur Boxing

Repealed in its entirety.

Copies of the full text of these proposed rules may be obtained from the Boxing and Wrestling Commission, 234 Loyola Avenue, Suite 930, New Orleans, LA; or through the Office of the State Register, 1051 North Third Street, Baton Rouge, LA

Any interested person may comment orally or in writing on these rules to Mr. Leonard Miller, Jr., Chairman or Mr. Patrick C. McGinity, Attorney, State Boxing Commission, Suite 930, 234 Loyola Avenue, New Orleans, LA 70112.

Comments will be accepted through the close of business at 5 p.m. on June 20, 1996.

Leonard Miller, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Amend LAC 46:XI.Chapters 1-3
Repeal of LAC 46:XI.Chapter 7

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this rule other than minimal cost to publish (the *Louisiana Register*).
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections. This is because the Boxing and Wrestling Commission is promulgating rules already in place.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The adoption of this rule will benefit contestants and spectators by providing clean and sportsman-like boxing and the prevention of injuries to contestants.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition or employment.

Patrick C. McGinity
Attorney
9605#034

Richard W. England
Assistant to the Legislative
Fiscal Officer

NOTICE OF INTENT

Department of Economic Development
Racing Commission

First Aid Services (LAC 35:III.5711)

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

Title 35

HORSE RACING

Part III. Personnel, Registration and Licensing

Chapter 57. Association's Duties and Obligations
§5711. First Aid Services

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

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

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:434 (December 1976), amended LR 3:30

(January 1977), LR 4:278 (August 1978), LR 9:546 (August 1983), amended by the Department of Economic Development, Racing Commission, LR 16:763 (September 1990), LR 22:

Paul D. Burgess
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: First Aid Services**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This action does not effect revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action benefits ontrack horsemen and patrons by providing emergency medical services as needed.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
9605#063

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Superfecta (LAC 35:XIII.11701)

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

The full text of this proposed rule is printed in its entirety in the emergency rule section of this May, 1996 issue of the *Louisiana Register*.

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. 4p.m. and interested parties may contact Paul D. Burgess, executive director; C. A. Rieger, assistant director; or Tom Trenchard, administrative manager, at (504) 483-4000, holidays and weekends excluded, for more information.

All interested persons may submit written comments relative to this proposed rule through Monday, May 6, 1996, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5111.

Paul D. Burgess
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Superfecta

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This action could effect revenue collections in a positive manner, but is indeterminate.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action primarily benefits patrons by allowing a new form of exotic wagering.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
9605#019

H. Gordon Monk
Chief Coordinator for the
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Handbook for School Administrators

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Standard 1.010.02 of Bulletin 741, Louisiana Handbook for School Administrators as stated below:

Under Standard 1.010.02 - Operations Policies, add "K" to read:

"A written personnel policy that requires the use of universal precaution when individuals have direct contact with blood or other body fluids and provide sanctions, including discipline if warranted, for failure to use universal precautions."

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 22:

Interested persons may submit written comments until 4:30 p.m., July 9, 1996 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: Handbook for School Administrators

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no cost to state or local government units.
BESE estimated cost for printing this policy change and first

page of 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)
There will be no revenue collections of state or local government units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no costs or economic benefits to the administrators affected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9605#045

Richard W. England
Assistant to the
Legislative Fiscal Officer

Carole Wallin
Executive Director

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1882—Administrative Leadership
Academy Guidelines (LAC 28:I.920)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement Bulletin 1882, Administrative Leadership Academy Guidelines, Revised 1996. Bulletin 1882 is referenced in the Administrative Code as noted below and the complete document may be seen in the Office of the State Register, Room 512 of the Capitol Annex in Baton Rouge, LA; in the State Department of Education, or in the Office of the State Board of Elementary and Secondary Education located in Baton Rouge, LA.

The proposed rule changes include the following:

1. appeal procedure for individual credit requests added;
2. specific penalty for failure to earn the required academy credits added;
3. credit-earning options have been expanded to include participation in training activities sponsored by the Department of Education;
4. a principal internship program for principals only and an assistant principal internship.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans §920. Administrative Leadership Academy Guidelines

- A. Bulletin 1882
1. Bulletin 1882, Administrative Leadership Academy Guidelines, is adopted. (1996)
 2. This bulletin contains regulations and guidelines pertaining to membership in the Administrative Leadership Academy and credit-earning procedures to be used by members in fulfilling academy requirements. Also included are general guidelines to be used by individual members and

sponsoring organizations seeking credit-worthy training activities and specific guidelines pertaining to the principal internship. Incorporated also is a policy regarding the principal and assistant principal internships.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761-3764.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 22:

Interested persons may submit comments on the proposed policy revisions until 4:30 p.m., July 9, 1996 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Administrative Leadership Academy Guidelines

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be a cost of approximately \$850 to print 4,000 copies of Bulletin 1882.
BESE estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$100. Funds are available.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no revenue collection of state or local government units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no costs or economic benefits to the administrators affected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Marlyn Langley
Deputy Superintendent
for Management and Finance
9605#044

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Shielding Exemptions; NRC Revisions
(LAC 33:XV.Chapters 1, 4, 6 and 10) (NE015)

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 Radiation Protection Division regulations, LAC 33:XV.Chapters 1, 4, 6, and 10 (NE015).

This proposed rule reflects minor changes to Chapters 1, 4, and 10 suggested by the Nuclear Regulatory Commission (NRC) through the Conference of Radiation Control Program Directors (CRCPD). The most detailed of these changes involves clarifying what would be considered allowable radiation exposure to "declared pregnant women."

The changes to Chapter 6 exempt certain types of medical professionals from radiation shielding evaluation requirements. These individuals were previously required to submit shielding plans (and a fee) to the division for approval. During their normal activities, these individuals do not use enough radiation to need radiation shielding. Amendments to Chapters 1, 4, and 10 are required for the state of Louisiana to remain fully compatible as an NRC Agreement State. The CRCPD suggests standards for adoption by states to meet the requirements of the federal regulations. These standards were recently amended by the CRCPD. The proposed rule includes the changes suggested.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

A public hearing will be held on June 27, 1996, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by NE015. Such comments should be submitted no later than July 5, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70810 or to FAX number (504) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division for pricing information. Check or money order is required in advance for each copy of NE015. The regulation is also available at a cost of \$14.25 from the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802. Please reference document number 9605#062.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; and at the Office of the State Register, 1051 North Third Street, Suite 512, Baton Rouge, LA.

Gustave Von Bodungen
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Shielding Exemptions; NRC Revisions

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on implementation costs to state or local governmental units is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
From the changes to Chapters 1, 4, and 10, no implementation cost or economic benefit to directly affected persons is anticipated. (These changes are required to remain compatible with the NRC in the regulation of radioactive materials.) The changes to Chapter 6 should very slightly lower costs to directly affected persons.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect of this proposed rule on competition and employment is anticipated.

Gustave Von Bodungen
Assistant Secretary
9605#062

Richard England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary

Emergency Response (LAC 33:I.Chapter 69) (OS018A)

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 Office of the Secretary regulations, LAC 33:I.Chapter 69 (OS018A).

The proposed rule would establish requirements for responding to off-site releases and potential releases that are expected to immediately endanger the health and safety of the public or the environment. The requirements include provisions for transportation and temporary storage of material resulting from the cleanup or abatement of off-site emergency conditions. The regulation is needed to create a regulatory framework whereby pollutants resulting from an emergency response situation can be managed in a responsible and efficient manner.

A previous proposed rule, OS018, appeared in the *Louisiana Register* on August 20, 1995 and was withdrawn on January 29, 1996. This proposed rule, OS018A, reflects many of the public comments and suggestions regarding the previous proposed rule, OS018.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S. 49:953 (G) (3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

**TITLE 33
ENVIRONMENTAL QUALITY**

Part I. Office of the Secretary

Subpart 4. Emergency Response Regulations

Chapter 69. Emergency Response Regulations

§6901. Applicability

The requirements of these regulations apply to:

1. the release or potential release of a pollutant resulting from an off-site emergency condition, as defined by this Chapter;
2. any incident that has been declared an emergency by the secretary in accordance with R.S. 30:2033; and
3. the transportation, receipt, and storage of material resulting from the cleanup and/or abatement of an off-site emergency condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

§6903. Exclusions

The requirements of these regulations do not apply to spills, cleanup, and/or abatement of materials subject to management under the Oil Spill Prevention and Response Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

§6905. Definitions

The following terms as used in this Chapter shall have the meaning listed below.

Act—the Louisiana Environmental Quality Act, R.S. 30:2001 et seq.

Administrative Authority—the secretary of the Department of Environmental Quality, or his or her delegate, including members of the department's Emergency Response Section.

Cleanup—all actions taken to contain, collect, control, identify, analyze, treat, disperse, remove, or dispose of pollutants resulting from a release associated with an off-site emergency condition.

Cleanup Costs—all costs incurred by the state or any of its political subdivisions, or their agents, or by any other person participating with the approval of the administrative authority in the cleanup of pollutants resulting from an off-site emergency condition.

Department—the Department of Environmental Quality.

Emergency Abatement—action taken to prevent or control a release or potential release of pollutants that could reasonably be expected to cause an off-site emergency condition.

Emergency Condition—any condition that could reasonably be expected to endanger the health and safety of the public, cause significant adverse impact to the land, water, or air environment, or cause severe damage to property. This definition includes transportation related events, abandoned containers, barrels, and other receptacles.

Emergency Response Storage Facility—a facility used for storage of material generated from the cleanup and/or abatement of an off-site emergency condition.

Pollutant—any substance introduced into the

environment of the state by any means that would tend to degrade the chemical, physical, or biological integrity of such environment.

Release—the accidental or intentional spilling, pumping, pouring, emitting, escaping, leaching, or dumping of any hazardous substance or other pollutants into or on any land, air, water, or groundwater. A release shall not include a federal or state permitted release.

Responsible Person—any person owning, handling, storing, transporting, or managing a pollutant that results in an off-site emergency condition. This shall include bailees, carriers, and any other person in control of a pollutant and who may be operating under a lease, contract, or other agreement with the legal owner thereof. For the purposes of this Chapter, responsible persons do not include those innocent landowners who exercise no control or ownership over the materials or activities giving rise to an off-site emergency condition.

Secretary—the secretary of the Department of Environmental Quality.

Transportation—the movement of solid, liquid, or hazardous reusable materials or wastes from the site of an off-site emergency condition to a point of collection authorized by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

§6907. Notification Procedures for Emergencies

Upon learning of an off-site emergency condition, the responsible person having control over the material shall notify the administrative authority, if notification is required, in accordance with LAC 33:I.Chapter 39.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

§6909. Emergency Abatement and/or Cleanup Responsibilities

A. In the event of an off-site emergency condition resulting in the release or potential release of a pollutant, any responsible person having control over the material shall immediately commence clean up of the release or commence emergency abatement activities to prevent or control the release.

B. Abatement and/or cleanup of an off-site emergency condition identified under Subsection A of this Section shall be to the extent necessary to prevent a hazard to human health and safety and the environment. However, nothing in this Section shall preclude the administrative authority from requiring compliance with other applicable provisions of the Louisiana Administrative Code or the act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

§6911. Responsible Person Unwilling or Unknown

A. If a responsible person required to clean up or conduct abatement measures under LAC 33:I.6909 fails or refuses to do so, or does not complete abatement and/or cleanup, the

secretary may declare that an emergency exists in accordance with R.S. 30:2033 and abate the emergency and/or cleanup the release or contract for the emergency abatement and/or cleanup of the release or potential release.

B. In the event of an off-site emergency condition resulting in release or potential release of a pollutant in which the responsible person is unknown, the secretary may declare that an emergency exists in accordance with R.S. 30:2033 and initiate remedial action as necessary to protect public health and welfare and the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14),(15), 30:2015, and 30:2033.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

§6913. Reimbursement for Expenses of Emergency Abatement and/or Cleanup

The administrative authority may seek reimbursement for any emergency abatement and/or cleanup costs incurred by the state by any method provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15) and 30:2015.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

§6915. Transportation, Receipt, and Temporary Storage of Material from the Cleanup and/or Abatement of an Off-site Emergency Condition

Transportation, receipt, and storage of any material generated as a result of the cleanup and/or abatement of any off-site emergency condition, and not specifically authorized by the Louisiana Administrative Code, Title 33, may be authorized by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

§6917. Easements, Rights of Way, Eminent Domain

In the event of a declared emergency condition, the secretary shall have the authority to claim comprehensive easement, rights of way, and eminent domain over the immediate site or the location of the emergency condition and all other areas sufficient to secure, contain, cleanup, or abate the emergency condition in accordance with R.S. 30:2036.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14),(15) and 2036.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

§6919. Emergency Response Storage Facility Requirements

This Section applies to emergency response storage facilities not otherwise authorized by the Louisiana Administrative Code, Title 33.

A. Storage Restrictions

1. Storage of material generated from the abatement and/or cleanup of an off-site emergency condition may be authorized by the administrative authority for up to 90 days. Storage of such material maintained in an emergency response facility shall be in accordance with the requirements in Subsection B of this Section.

2. If required, due to unforeseen, temporary, or uncontrollable circumstances, the administrative authority may authorize storage for longer than 90 days. No extension

granted in accordance with this Section may exceed 30 days in duration.

B. Management of Tanks, Containers, and Storage Area. Tanks or containers used to store material generated from the abatement and/or cleanup of an off-site emergency condition shall be managed in the following manner:

1. a legible label shall be affixed to the outside of the tank or container so that it is readable from the aisle adjacent to where the container is stored and shall contain all pertinent information known regarding its contents including, but not limited to, date of incident, location of the release, transporter name and, if applicable, EPA identification number, generator name and identification number, waste code, U.N. number, and temporary Louisiana identification number;

2. if a tank or container is not in good condition (e.g., bulging, severe rusting, apparent structural defects) or if it begins to leak, the owner or operator of the emergency response storage facility shall transfer the contents of the tank or container to a tank or container that is in good condition or manage the tank or container's contents in some other way that complies with the requirements of this Section;

3. tanks or containers used shall be made of or lined with materials that will not react with, or be incompatible with, the material to be stored so that the ability of the tank or container to contain the material is not impaired;

4. containers shall not be opened, handled, or stored in a manner that may rupture the container or cause it to leak;

5. at least weekly the emergency response storage facility owner or operator shall inspect tanks, containers, and areas where containers are stored, looking for leaking or deteriorating tanks or containers and at the overall condition of the storage area. Immediate remedial action shall be taken by the owner or operator upon discovery of any problems in the storage area; and

6. tanks or containers used for the storage of material generated from the abatement and/or cleanup of an off-site emergency condition shall be free of any incompatible residue from any previous contents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

§6921. Reporting Requirements

No later than 30 days after material from the cleanup and/or abatement of an off-site emergency condition is removed from an emergency response storage facility, the owner or operator of the facility shall submit to the Emergency Response Section located in Baton Rouge, Louisiana, a written report detailing the ultimate disposition of the material. The report shall reference the department-issued incident number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

§6923. Characterization of Stored Material

A. The responsible person must determine the character (chemical composition and regulatory status) of any material stored in an emergency response storage facility before the time allowed for storage by LAC 33:I.6919 has elapsed and

prior to any subsequent management activities, except as authorized by the administrative authority.

B. Except as otherwise provided by this Chapter, materials generated from the abatement and/or cleanup of an off-site emergency condition must be managed according to the requirements of all applicable regulations including, but not limited to, LAC 33:V and VII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14),(15) and 30:2025.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

§6925. Enforcement

A. Failure to Comply. Failure of any person to comply with any of the provisions of these regulations or order issued hereunder constitutes a violation of the act.

B. Investigations: Purposes, Notice. Investigations may be undertaken to determine whether a violation has occurred or is about to occur, the scope and nature of the violation, and the persons or parties involved. The results of an investigation shall be given to any complainant who provided the information prompting the investigation, upon written request, and if advisable, to the person under investigation if the identity of such person is known.

C. Development of Facts, Reports

1. The administrative authority may conduct inquiries and develop facts in investigations by staff investigatory procedures or formal investigations and may conduct inspections and examinations of facilities and records. The administrative authority or a presiding officer may hold public hearings and/or issue subpoenas in accordance with R.S. 30:2025(I) and require attendance of witnesses and production of documents, or may take such other action as may be necessary and authorized by the act or rules promulgated by the administrative authority. At the conclusion of the investigation all facts and information concerning any alleged violation shall be compiled by the staff of the department. A report of the investigation shall be presented to the administrative authority for use in possible enforcement proceedings. Any complainant who provided the information prompting the investigation shall be notified of its results.

2. The administrative authority shall have access to and be allowed to copy any records that the department or its representative finds necessary for the enforcement of these regulations. For records maintained in either a central or private office that is open only during normal office hours and is closed at the time of the inspection, the records shall be made available as soon as the office is open, but in no case later than noon the next working day.

D. Enforcement Action. When the administrative authority determines that a violation of the act or these regulations has occurred or is about to occur, he shall initiate one or more of the actions set forth in R.S. 30:2025, or as otherwise provided by appropriate rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14),(15) and 30:2025.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

A public hearing will be held on June 27, 1996, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested

persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS018A. Such comments should be submitted no later than July 5, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70810 or to FAX number (504) 765-0486.

J. Dale Givens
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Emergency Response (OS018A)

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on implementation costs to state or local governmental units is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
A potential economic benefit may result from the state having procedures to quickly deal with off-site spills and abandoned containers prior to their causing adverse environmental impact or expensive cleanup costs.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect on competition and employment will result from this rule.

J. Dale Givens
Secretary
9605#059

Richard England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Sanitary Code—Lead Poisoning Control
(Chapter IV)

Pursuant to the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health intends to amend Chapter IV of the State Sanitary Code to bring the Code into agreement with current state laws, federal housing regulations and industry standards, and to more effectively deal with child lead poisoning cases.

CHAPTER IV

LEAD POISONING CONTROL

4:001. Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the Sanitary

Code and all other Chapters which are adopted or may be adopted, are defined for the purposes thereof as follows:

Abate—to remove, isolate, cover with permanently affixed lead-free covering incapable of being readily chewed through, pierced, torn or removed, or to otherwise make inaccessible to children or other persons, sources of lead contamination.

Painting over lead-based paint with nonlead paint shall not constitute abatement; however, liquid encapsulant formulated and warranted by the manufacturer for such purpose may be used. Contaminated soil may be covered with uncontaminated topsoil or vegetation, if approved by the state health officer.

Chewable Surface—shall include, but not be limited to, such surfaces as window sills, window frames, door frames, handrails, toys, furniture, and other appurtenances offering a biting surface to a child or other person.

Child—as used in this chapter shall mean a child under 6 years of age.

Dwelling—a building or structure occupied or designed or intended to be occupied as a place of human habitation and use, and construed to include any accessory building or structure belonging thereto or usually enjoined therewith.

Dwelling Unit—any room or group of rooms or other interior area of a dwelling designed or used for human habitation.

Exposed Surface—all surfaces of a premises which are readily accessible to any person. Such surfaces include structural components, walls, and siding from floor or ground level to a vertical distance of at least five feet. Any area subject to contamination from flaking, peeling or chalking lead based materials is also considered an exposed surface.

Lead Contamination—shall include: paint or similar coating material, putty, plaster or other composition material, on a exposed surface or chewable surface, which contains ≥ 0.5 percent lead by weight as determined by laboratory analysis or ≥ 1.0 milligram per square centimeter of surface area as measured by X-ray fluorescence or equivalent method; drinking water, dust, or soil which contains a level of lead which, in the judgment of the state health officer, is sufficient to be a source of lead poisoning to children or other persons; any object or material which, in the judgment of the State Health Officer, can be a source of lead ingestion or inhalation.

Lead Poisoning—a blood lead level hazardous to health as established by the state health officer.

Occupant—any person living, sleeping, cooking, eating in or having actual possession of a dwelling or dwelling unit.

Operator—any person who has charge, care or control of a building or part thereof in which dwelling units are let.

Other Person—as used in this Chapter shall mean a person, other than a child under 6 years of age, deemed by the state health officer to be at risk of lead poisoning because of mental state, physiological condition, or behavioral traits.

Owner—a holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

Premises—a lot, plot or parcel of land or part thereof including all facilities and improvements thereon.

Surface—the outermost layer of the superficial area of a premises.

4:002. Lead contamination shall be considered a health

hazard to children or other persons, if said lead contamination exists in or about a dwelling, dwelling unit, household, or other premises which, in the judgment of the state health officer, children or other persons visit with such frequency or duration as to create significant risk of lead poisoning.

4:003. All day care facilities or institutions in which children or other persons commonly reside or are cared for shall be maintained free of lead contamination.

4:004. When the state health officer is informed of a case of lead poisoning, he shall cause to have inspected the dwelling in which the person with lead poisoning resides, or has recently resided, if the occupants of such dwelling consent, after reasonable notice, to such inspection. The state health officer may, as he deems necessary, cause to have inspected other residences or premises which the person with lead poisoning frequents.

4:005. The purpose of such inspection shall be to identify possible sources of lead poisoning. The inspection may include: *in situ* testing with an X-ray fluorescence analyzer or other method approved by the state health officer; collection of paint, dust, soil, and water samples for laboratory analysis; visual inspection for objects which may contain lead; and interviews with the person with lead poisoning or others with knowledge of the person's behavior and habits.

4:006. When lead contamination is found in a dwelling, the following actions shall be taken:

4:006-1. The inspection findings shall be reported in writing immediately to the parent or guardian, owner and/or operator of the building, all affected tenants, the person having medical management of the lead poisoning case, and the state health officer.

Additionally, any findings as to behavior or habits of the person with lead poisoning which might be causative of lead poisoning shall be reported to the person having medical management.

4:006-2. The parent or guardian of the person with lead poisoning and the owner and/or operator of the building shall be notified that such person and other children should immediately be protected from the lead hazard, either by removal from the dwelling, isolation of the contamination, or other method approved by the state health officer, until the hazard is abated.

4:006-3. A notice shall be prominently posted on the main entrance of the dwelling that the premises contains levels of lead hazardous to children and other persons and that such persons should not occupy the building until the hazard has been abated. Such notice may not be removed until the state health officer determines that the hazard has been abated. Unauthorized intentional removal of the notice shall subject the offender to a fine of \$500 as provided in R.S. 40:1299.(24).(C).

4:006-4. The state health officer shall strongly encourage the examination of all children and other persons residing, or who have recently resided in the dwelling.

4:006-5. If, within 30 days of notification of the existence of lead contamination, the parent or guardian and/or the owner or operator of the building have not taken adequate measures to protect the person with lead poisoning and children and other persons from the lead hazard, they shall be invited to

attend a conference at local health unit or other site designated by the state health officer. Invitees shall be given at least 10 days advance notice of the conference; shorter notice may be given if mutually agreeable. Present at the conference shall be: the inspector or other Office of Public Health representative familiar with the inspection results, the person having medical management of the poisoning case or other person familiar with the case, and if possible, a social worker.

4:006-6. The purpose of the conference shall be to inform the invitees of the hazard to the person with lead poisoning, and to children and other persons, the necessity for protecting such persons from the lead hazard, and to develop a plan of action to accomplish such. Such plan should include removal of the persons at risk, abatement of the hazard, or other steps approved by the state health officer. A written or electronic record of the conference shall be kept. At the conclusion of the conference, the invitees shall be requested to sign a statement that they understand the hazard to the child, and that they agree to accomplish the plan of action by a mutually agreed upon date. Such statement shall be made part of the conference record.

4:006-7. If, at any time, the state health officer determines that a child with lead poisoning and other children in the family are at risk and are likely to remain so without intervention beyond that outlined above, he shall notify the appropriate child protection agency and/or other agency of the particulars of the case.

4:007. Lead contamination identified as a result of the aforementioned inspection shall not be considered abated until verified by a reinspection authorized by the state health officer.

Interested persons may submit written comments to the following address: Charles H. Anderson, Sanitarian Program Administrator, Box 60630, New Orleans, LA 70160, by the close of business on June 30, 1996. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on the proposed changes will be held at 12 noon on June 24, 1996 in the Fourth Floor Conference Room, Department of Transportation and Development Annex Building, 1201 Capitol Access Road, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Lead Poisoning Control**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated implementation costs to state or local units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Owners and tenants of low-valued housing will be directly affected. In many cases, removal of lead paint from such houses would cost more than the value of the house. New rule allows for alternatives to complete removal. Also, old rule effectively takes housing with lead paint off the rental market by prohibiting any person from residing therein. New rule removes this prohibition, thereby not decreasing supply of low-rent housing. No figures are available to form an estimate of magnitude of economic impact.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

New rule will prevent removal of rental dwellings from the market, thus preserving competition which should be of benefit to renters. No figures are available as to amount of impact this will have.

Bobby P. Jindal
Secretary
9605#058

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Sanitary Code—Molluscan Shell Stock (Chapter IX)

The Department of Health and Hospitals, Office of Public Health intends to amend Chapter IX of the State Sanitary Code, Section 9:052. The proposed rule change is necessary in order to provide an increased level of assurance that shell-stock oysters, clams and mussels are refrigerated (after harvest) in a timely manner. Adoption of this rule is necessary for this program to be in compliance with the latest recommendations of the National Shellfish Sanitation Program.

The text of this proposed rule may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit questions or written comments to the following address: Charles C. Conrad, Administrator, Commercial Seafood Inspection Program, Box 60630, New Orleans, LA 70160. He is responding to inquires regarding these proposed rule changes. All questions or comments must be received by June 30, 1996. A public hearing on the proposed changes will be held on June 24, 1996 at 10 a.m. in the Fourth Floor Conference Room, the Department of Transportation and Development Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Sanitary Code—Molluscan Shell Stock

- 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 or revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is a potential for reduced earnings by the state's shellfish industry. It is not presently possible to come up with a reasonably accurate estimate.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no significant impact on competition or employment.

Bobby P. Jindal
Secretary
9506#065

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary**

Maternal and Child Health Block Grant

The Department of Health and Hospitals (DHH) intends to apply for Maternal and Child Health (MCH) Block Grant Federal Funding for FY 1996-97 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* Volume 47, Number 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.

The application is available for review at any regional OPH facility. It may also be obtained from the Office of the State Register, 1051 North Third, Baton Rouge, LA at a cost of \$19.75. Please reference document 9605#066.

A public hearing on the Block Grant is scheduled for Tuesday, June 25, 1996 at 1:30 p.m. in the Department of Health and Hospitals Third Floor Conference Room A, 1201 Capitol Access Road, Baton Rouge, LA.

At the public hearing all interested persons will have the opportunity to provide recommendations on the proposed Block Grant orally or in writing. Written comments will be accepted through July 10, 1996. Comments may be addressed to Eric Baumgartner, M.D., Assistant Secretary, Office of Public Health, 1201 Capitol Access Road, Baton Rouge, LA.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Maternal and Child Health Block Grant

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This block was implemented in FY 82. Neither an increase not a decrease in implementation costs is expected, as DHH will continue to administer these programs in accordance with existing federal and state laws and regulations. No workload change is anticipated, as the same amounts and kinds of services are expected to be delivered.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections is anticipated. Naturally, if the federal allotment to Louisiana for this block decreases, the state will be required to subsequently decrease the allotment to all programs covered under the block, but this is a factor beyond our control. The amount of the allocation for Louisiana for FY 96-97 is expected to be \$14,795,682 which is the same amount as FY 95-96.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No direct effect is anticipated on patients, groups, units of local government or state agencies other than DHH.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect is anticipated on competition and employment, as the same kinds and amounts of services are to be offered. Should the amount of federal funds eventually appropriated be at such a decreased level as to warrant reductions in staff, unemployment will result.

Eric T. Baumgartner, M.D., MPH
Assistant Secretary
9605#066

Richard England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

**Facility Need Review—Nursing Facilities, Beds
(LAC 48:I.12503)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt the following emergency rule for facility need review as authorized by R.S. 40:2116 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. Existing regulations providing for facility need review (LAC 48:I.12501-12505) were initially adopted on January 20, 1991, and were later repealed and repromulgated in the *Louisiana Register* on August 20, 1995, LR 21:806. These regulations include provisions for the approval of additional nursing facility beds to enroll in the Title XIX Program based on either a facility specific exception for an area with high occupancy, or the replacement of a nursing facility that is structurally older than 25 years. The department proposes to repeal these provisions from the regulations providing for facility need review.

Data from *The Guide to the Nursing Home Industry*, 1995 by HCIA Inc. and Arthur Anderson LLP, indicates that sufficient nursing facility beds are available in Louisiana to serve the Medicaid population requiring this level of care. Nationally, the occupancy rate for nursing homes is about 91 percent, while in Louisiana the occupancy rate is about 87 percent. For beds per 1,000 persons age 65+ the national average is about 54.6, while in Louisiana it is at least 77 beds.

Costs incurred for the care of each Medicaid beneficiary are factored into the reimbursement rate for nursing facilities when these rates are rebased. Costs of additional unoccupied beds, including but not limited to capital and maintenance costs, will be absorbed into and increase rates for Medicaid beneficiaries filling occupied beds. If more beds are enrolled than needed, expenditures will increase beyond the amount necessary for providing required nursing facility care to the Medicaid population.

Effective April 9, 1996 the department adopted an emergency rule repealing those facility need review regulations which provide for the approval of additional nursing facility beds to enroll in the Title XIX Program based on either: 1) a facility specific exception for an area with high occupancy; or 2) the replacement of a nursing facility that is structurally older than 25 years. This rule was subsequently published in the *Louisiana Register* on May 20, 1995.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12503. Determination of Bed Need

A.1.-6.d. ...

B. Nursing Facilities/Beds

1.-8. ...

9. In order for additional nursing facilities/beds to be added in a service area, the bed-to-population ratio for nursing facility beds shall not exceed 65 Medicaid approved beds per 1,000 elderly population in a service area, and average annual occupancy for the four most recent quarters as reported in the LTC-2 shall exceed 95 percent in the service area. An exception for areas with high occupancy is described below:

a. - a.vii. Repealed.

b. - b.xiii. ...

10.a. - 10.c. ...

11. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21:808 (August 1995), amended LR 22:

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

A public hearing on this proposed rule is scheduled for Tuesday, June 25, 1996 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access road, Baton Rouge, LA. At this time interested persons will be afforded an opportunity to submit

data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Facility Need Review Nursing Facilities/Beds

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The only estimated implementation cost anticipated will be the cost for promulgation of the proposed rule. This cost is estimated to be \$260.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will have no effect upon revenue collections of either state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule will have no effect upon costs and/or economic benefits in the near future since a moratorium on additional nursing facility bed approval takes effect July 1, 1996 and lasts until July 1, 1999. After the moratorium ends, a reduction in expenditures is anticipated based upon implementation of this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known impact on competition or employment because of the moratorium.

Thomas D. Collins
Director
9605#060

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Medicaid Pharmacy Benefits Management System
Point-of-Sale—Prospective Drug Utilization Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act, Section 1927(g) and (h) and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid Program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law".

Section 1927(g) as added by section 4401 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990) provides that in order for states to receive federal financial participation for covered outpatient drugs, the state must have in operation a drug use review program. This Drug Utilization Review Program must consist of prospective drug review, retrospective drug use review, the application of explicit predetermined standards, and an educational program. The purpose of this program is to improve the quality of pharmaceutical care by ensuring that prescriptions are appropriate and medically necessary, and that they are not likely to result in adverse medical effects. This section of the Act mandates detailed requirements for conducting drug use reviews and for the State Drug Utilization Review Boards. The Department of Health and Hospitals Board of Pharmacy adopted a Rule on August 20, 1992 (*Louisiana Register* Volume 19, No.8) which incorporated these requirements under the Professional and Occupational Standards for pharmacists. Section 1927(h) also added by the Omnibus Budget Reconciliation Act of 1990 encourages states to establish a point-of-sale electronic claims management (ECM) system for processing claims for covered outpatient drugs which is capable of performing on-line, real time eligibility verifications, claims data capture, adjudication of claims and assisting pharmacists and other authorized persons in applying for and receiving payment. Regulations at Section 456.705(a) and (b)(1) require review of drug therapy based on predetermined standards at the point-of-sale before each prescription is filled or delivered to a recipient. The proposed rule provides integration of the pharmacy operations into a pharmacy benefit management system for the enhanced operation of the Louisiana Drug Utilization Review Program and the Medicaid State Plan by including prospective drug review at the point-of-sale, an educational program, and implementation of the Point-of-Sale Electronic Claims Management.

The implementation of the following proposed rule will integrate and enhance current efforts to provide optimal pharmaceutical services and to maintain program integrity. Integration of the Pharmacy Program's existing components, Retrospective Drug Utilization Review, Formulary Management, Claims Management, Patient Education Program, Pharmacy Provider Network and Provider Service with the Louisiana Medicaid Pharmacy Benefits Management's new components of Enhanced Pharmacy Network, Pharmacy Provider Help Desk, Point-of-Sale Electronic Claims Management Network, Point of Service Prospective Drug Utilization Review System and Patient, Physician and Pharmacist Education System will enhance the existing features to allow for greater capability to determine if appropriate pharmaceuticals are being utilized for optimal disease and outcomes management of the patient. The Department of Health and Hospitals has initiated an Interdisciplinary Medicine and Pharmacy Team to assist in the development of various educational and intervention components. The conversion of the current Drug Utilization Review Program into an enhanced on-line electronic prospective one will reduce costly duplicate drug therapy, prevent potential drug to drug interactions, assure appropriate

drug use, dosage and duration of therapy. In addition the electronic system will provide drug information and education to providers. This electronic system will enable the Medicaid Program to monitor prescribing patterns and recipient drug utilization patterns. Analyses of data derived from the Point-of-Sale/PRO-DUR system will allow for timely interventions for those providers and/or recipients. The point-of-sale technology will integrate provider networks which will allow for better management of disease states.

This system will be administered by the Bureau of Health Services Financing with contractual agreements for programmatic and administrative support with the Northeast Louisiana University, School of Pharmacy, the fiscal intermediary for the Medicaid Program and an audit firm. The on-line Point-of-Sale System will provide accurate and efficient information including online, real-time eligibility, claims data capture, claims adjudication and claims payment. Also this system will integrate provider networks which will allow for better management of the patient's health care.

The department initiated emergency rulemaking to implement these initiatives effective January 1, 1996 (*Louisiana Register* Volume 22, No.1).

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to implement the Louisiana Medicaid Pharmacy Benefits Management System (LMPBM) which includes a Point-of-Sale/Prospective Drug Utilization Review component. The department reserves the right for ultimate decision making relative to certain drug class information and drug contraindications or interactions.

The LMPBM Program will integrate the following administrative components of the Medicaid Pharmacy Program.

1. **Formulary Management.** The formulary is managed through the use of the Federal Upper Limits (FUL) and the Louisiana Maximum Allowable Costs (LMAC) limitations. Federal Upper Limits and Louisiana Maximum Allowable Costs limitations provide for dispensing of multiple source drugs at established limitations unless the prescribing physician specifies that the brand product is medically necessary for a patient. Establishment of co-payments also provides for formulary management. The Medicaid Program has established a broad formulary with limited exceptions.

2. **Reimbursement Management.** The cost of pharmaceutical care is managed through Estimated Acquisition Costs (EAC) of drug ingredient costs through Average Wholesale Price (AWP) discounting, the Louisiana Maximum Allowable Costs (LMAC) limitations and compliance with Federal Upper Limits (FUL) regulations, and the establishment of the maximum allowable overhead costs, drug rebates and co-payments.

3. **Claims Management.** The claims management component is performed through the processing of pharmacy claims against established edits. Claim edit patterns and operational reports are analyzed to review the effectiveness of established edits and to identify those areas where the development of additional edits are needed.

4. Program Integrity. Program Integrity is maintained through the following mechanisms: Retrospective Drug Utilization Review, Lock-In Program for patient education, Surveillance and Utilization Review Program which provides for on-going review processes for misutilization, abuse and fraud, and audits of the providers of the Pharmacy Program.

5. Pharmacy Provider Network. Enrolled Medicaid pharmacy providers are required to comply with all applicable federal and state laws and regulations.

6. The Point-of-Sale Prospective Drug Utilization Review System. This on-line Point-of-Sale System provides electronic claims management to evaluate and improve drug utilization quality. Information about the patient and the drug will be analyzed through the use of eight therapeutic modules in accordance with the standards of the National Council of Prescription Drug Plan. The purpose of Prospective Drug Utilization Review is to reduce in duplication of drug therapy, prevent drug to drug interactions, and assure appropriate drug use, dosage and duration. The PRO-DUR modules may screen for drug interactions, therapeutic duplication, improper duration of therapy, incorrect dosages, clinical abuse/misuse and age restrictions. Electronic claims submission sends on-line messages to pharmacists informing them of potential drug-related problems and the pharmacists must document their responses by using interventions codes. By using these codes pharmacists will document prescription reporting and outcomes of therapy for Medicaid recipients.

A. POS/PRS-DUR Requirements Provider Participation

1. A point-of-sale enrollment amendment and certification is required prior to billing POS/PRO-DUR system. Annual recertification is required.

2. All Medicaid enrolled pharmacy providers will be required to participate in the Pharmacy Benefits Management System.

3. All Medicaid enrolled pharmacy providers whose claim volume exceeds 100 claims or \$4,000 per month and all providers enrolled on January 1, 1996 will be required to participate in Point-of-Sale System. Long Term Care pharmacy provider claims may be processed through Electronic Media Claims (EMC).

4. Providers accessing the POS/PRO-DUR system will be responsible for the purchase of all hardware for connection to the switching companies and any fees associated with connection or transmission of information to the fiscal intermediary. The Bureau of Health Services Financing will not reimburse the provider for any initial on-going fees incurred by the provider to access the POS/PRO-DUR system.

5. Providers are required to verify eligibility with the monthly eligibility card and a copy of the card should be retained for processing the claim.

6. Pharmacy providers and physicians may obtain assistance with clinical questions from the Northeast Louisiana University, School of Pharmacy.

7. Physicians and pharmacy providers will be required to participate in the educational and intervention features of the Pharmacy Benefits Management System.

B. Recipient Participation. Pharmacy patients are encouraged to take an active role in the treatment or management of their health conditions through participation

in patient counseling efforts with their physicians and pharmacists.

C. Disease and Outcomes Management. Disease management will be focused on improving the drug therapy for certain disease states by developing procedures to assure direct interventions and increasing compliance of patients. Patient populations will be targeted for disease therapy monitoring and educational efforts.

D. Peer Counseling and Conference Management. The department will analyze data for individual prescribers and pharmacists. Quality management strategies will be used for peer counseling and conferences with prescribers and/or pharmacists to assure appropriate prescribing and dispensing.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821. He is responsible for responding to inquiries regarding this proposed rule. A public hearing will be held on this matter at 9:30 a.m., Tuesday, June 25, 1996, in the first floor auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 on the day following the public hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pharmacy Benefits Management Systems
Prospective/DUR Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will decrease expenditures for the Medicaid Program by approximately \$3,398,424 for SFY 1996; \$11,813,400 for SFY 1997; and \$5,906,700 for SFY 1998. The state portion of these savings are as follows: SFY 1996 \$929,469; SFY 1997 \$3,320,747; and SFY 1998 \$1,660,373.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that federal revenue collections for the Medicaid Program will decrease by approximately \$2,468,955 for SFY 1996; \$8,492,653 for SFY 1996-1997; and \$4,246,327 for SFY 1998.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that the providers of the Pharmacy and Hospital Programs will experience the estimated decreased expenditures of \$3,398,424 for SFY 1996; \$11,813,400 for SFY 1997; and \$5,906,700 for SFY 1998. It is anticipated pharmacy providers will experience the major portion of these reductions for the provision of their services and that hospital and physician providers will experience the remaining reimbursement reductions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9605#061

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Food Stamp Program (LAC 67:III.1947 and 1983)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part I, Subpart 3, Food Stamps.

Public Law 103-66, the Omnibus Budget Reconciliation Act of 1993, mandated food stamp revisions known as the Mickey Leland Childhood Hunger Relief Act, whereby a wide range of food stamp eligibility changes would take place over a span of several years. Rulemaking has already been promulgated to effect some changes as they occurred. This rule is being promulgated to encompass forthcoming changes in the areas of resource eligibility standards and deductions from income.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter H. Resource Eligibility Standards

§1947. Resources

* * *

B. The fair market value of vehicles which is excluded in determining a household's resources will be adjusted annually beginning October 1, 1996, using \$5,000 as a base and thereafter reflecting changes in the urban Consumer Price Index for new cars for the 12-month period ending the preceding June and rounding to the nearest \$50.

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 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 22:

Subchapter I. Income and Deductions

§1983. Income Deductions and Resource Limits

A. - A.1. ...

2. The maximum shelter deduction is \$247 per month for households which do not include a member who is elderly or disabled. The cap on shelter deductions will be eliminated effective January 1, 1997.

* * *

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 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 22:

Interested persons may submit written comments within 30 days to the following address: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-9065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on June 25, 1996 in the Second Floor Auditorium at the Department of Social Services, 755 Third Street, Baton Rouge, LA at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504)342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT

FOR ADMINISTRATIVE RULES

RULE TITLE: Food Stamp Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated cost to state government is \$105.26 in FY 96/97 for publishing the policy changes and printing related material. Although the policy change within the rule will result in increased benefits to recipients, food stamp benefits are 100 percent federally funded. The changes will cause an 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 or 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 proposed rule will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9605#064

Richard England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Transportation and Development Board of Registration for Professional Engineers and Land Surveyors

Minimum Standards for Property Boundary Surveys (LAC 46:LXI.2501-2509)

In accordance with the R.S. 49:950 et seq., notice is hereby given that the Board of Registration for Professional Engineers and Land Surveyors intends to revise LAC 46:LXI.2501-2509 as follows.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors Subpart 1. Rules

Chapter 25. Minimum Standards for Property Boundary Surveys

§2501. General

A. ...

B. These standards are set forth to solely provide a means by which professional performance can be assessed by the Louisiana State Board of Registration for Professional Engineer and Land Surveyors and to enable the surveying profession as a whole to better protect the safety, health, and welfare of the public. It should be recognized that surveying practices now in place may vary from one region of the state to another, and these practices should be evaluated when at variance with these standards.

C. It is intended that these be recognized as minimum standards of practice and that they not be relied upon by the professional surveyor as a substitute for the exercise of proper individual skill, professional discretion, and good judgment in fulfilling the legal and/or contractual requirements of any property boundary survey.

D. When in the professional surveyors opinion special conditions exist that effectively prevent the survey from meeting these minimum standards, the special conditions and any necessary deviation from the standards shall be noted upon the drawing. It shall be a violation of this rule to use special conditions to circumvent the intent and purpose of these minimum standards.

E. A property boundary survey shall only be performed by persons qualified to practice land surveying and registered in accordance with the provisions of R.S. 37:681, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:681, 682(9), 688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1064 (December 1990), amended LR 22:

§2503. Definitions

Any terms not specifically defined herein shall be as defined in the most current publication of *Definitions of Surveying and Associated Terms* as published by the American Congress on surveying mapping. For the purpose of these standards, all the definitions listed that differ from any other source are to be interpreted as written herein.

Client—the person with whom the contract for work is made. This may, or may not be the owner.

Corner—a point on a land boundary, at which two or more boundary lines meet. Not the same as monument, which refers to the physical evidence of the corner's location on the ground.

Deed—an instrument in writing which, when executed and delivered, conveys an estate in real property or interest therein.

Description, Legal—a written description usually contained in an act of conveyance, judgment of possession, etc., recognized by law which definitely locates property by metes and bounds or by reference to government surveys, coordinate systems or recorded maps; a description which is sufficient to locate the property without oral testimony.

Description, Metes and Bounds—a description of a parcel of land by reference to course and distances around the tract, or by reference to natural or record monuments.

Encroachment—any structure or obstruction which intrudes upon, invades or trespasses upon the property of another.

May—when used means that a choice on the part of the surveyor is allowed.

Monument—a physical structure which marks the location of a corner or other survey point. In public-land surveys, the term "corner" is employed to denote a point determined by the surveying process, whereas the "monument" is the physical structure erected to mark the corner point upon the earth's surface. Monument and corner are not synonymous, though the two terms are often used in the same sense.

Positional Accuracy—the difference between the actual position of a monument and the position as reported on the plat.

Positional Tolerance—the distance that any monument may be mislocated in relation to any other monument cited in the survey.

Prescription—title obtained in law by long possession. Occupancy for the period prescribed by the Louisiana Civil Code, as sufficient to bar an action for the recovery of the property, gives title by prescription.

Right of Way—any strip or area of land, including surface, overhead, or underground, granted by deed or easement, for construction and maintenance according to the designated use.

Servitude—a nonpossessing interest held by one person in land of another whereby the first person is accorded partial use of such land for a specific purpose. A servitude restricts but does not abridge the rights of the fee owner to the use and enjoyment of his land. The term easement is often used interchangeably with servitude and means the same thing.

Shall—the subject is imperative or mandatory and must be done by the surveyor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:681, 682(9), 688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1064 (December 1990), amended LR 22:

§2505. Classification of Surveys

A.-D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:681, 682(9), 688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1065 (December 1990), amended LR 22:

§2507. Property Boundary Survey

A. Definition

1. A property boundary survey is a survey which, after careful study, investigation, and evaluation of major factors influencing the location of boundaries, results in the deliberate location or relocation on the ground of one or more boundaries. When all the boundaries of a parcel of land are surveyed, an area determination may be included if requested by the client.

2. A mineral unit survey (or unit plat) is a plan showing subsurface mineral boundaries prepared for the specific purpose of allocating mineral rights. A mineral unit survey should not be viewed as a property boundary survey subject to the requirements of the Minimum Standards for Property Boundary Surveys. This does not absolve the professional land surveyor from his obligation to use due diligence in the practice and from complying with all applicable rules and laws pertaining to the practice of land surveying.

B. Purpose. The primary purpose of the property boundary survey is to locate or relocate the physical position and extent of the boundaries of real property, and the discovery of visible evidence of prescriptive rights relating thereto. A property boundary survey may also include the location or relocation of the physical position and extent of political boundaries which define the perimeters of public or private ownership. In addition, the property boundary survey is a means of marking boundaries for sufficient definition and identification to uniquely locate each lot, parcel, or tract in relation to other well recognized and established points of reference, adjoining properties and rights-of-way.

C. Product. A property boundary survey will result in the establishment of monumented corners; point of curvature and tangency; and reference points (See Subsection E, "Monuments," in this Section). In event that no plat of survey is required, the professional land surveyor must maintain adequate records to substantiate his professional opinion in reestablishing boundary lines and corners on a survey. If requested by the client, a boundary survey may also include the following:

1.-3. ...

D. Research and Investigation. A surveyor shall be provided the legal description or plats describing the property to be surveyed. The surveyor shall then evaluate the necessity to obtain the following data based on the specific purpose of the survey:

1. the most recent recorded legal descriptions and plats of the tract to be surveyed, tracts adjoining or in proximity to the property to be surveyed;

2. the recorded legal descriptions of adjoining, severing, or otherwise encumbering servitudes or rights-of-way,

including, but not necessarily limited to, highways, roadways, pipelines, utility corridors, and waterways used for drainage, navigation or flood control. Where the purpose of a survey neither requires nor includes research and investigation of servitudes, a note to that effect shall be placed upon the plat of survey;

3. ...

E.-E.2.a. ...

b. Concrete monuments shall be at least three inches in width or diameter by 24 inches in length, reinforced with an iron rod at least one-fourth inch in diameter, and may contain a precise mark on top indicating the exact location of the corner.

c. Marks on existing concrete, stone, or steel surface will consist of drill holes, chisel marks or punch marks and must be of sufficient size, diameter or depth to be definitive, stable and readily identifiable as a survey monument. Marks on asphalt roads may consist of railroad spikes, large nails, or "PK nails".

d. ...

e. Monuments must be set vertically whenever possible and the top may be reasonably flush with the ground when practical. Monuments subject to damage from earthwork, construction or traffic should be buried at a sufficient depth to offer protection.

f. ...

3 ...

F.-F.1. ...

2. In performing resurveys of tracts of whose boundaries are defined by lines established in public lands surveys, the surveyor shall, as nearly as possible, reestablish the original lines of any prior survey made under United States or state authority. In all townships or portions of townships where no survey has been made, the surveyor, in surveying or platting the township or portion thereof, shall make it conform as nearly as practicable to the lots and sections indicated upon the plats according to which the lands were granted by the state or by the United States. (R.S. 50:125)

3. ...

4. Special consideration shall be afforded by the rules of evidence and "hierarchy of calls" before any decision is made regarding property boundaries. "... The legal guides for determining a question of boundary or the location of a land line in order of their importance and value are:

- a. 1—natural monuments
- b. 2—artificial monuments
- c. 3—distances
- d. 4—courses
- e. 5—quantity

But the controlling consideration is the intention of the parties." (See citation in Meyer vs. Comegys, 1920 La. Supreme Court, 147 La. 851 and 86 SO. 307, 309.)

5.-7. ...

G. Plats and Maps. Every original plat or map of a boundary survey should be a reproducible drawing at a suitable scale which clearly shows the results of the field work, computations, research and record information as

compiled and checked. The plat, map or drawing shall be prepared in conformity with the following guidelines.

1.-2. ...

3. All dimensions, bearings or angles, including sufficient data to define the cure shall be neatly and legibly shown with respect to each property or boundary line. When possible, all bearings shall read in a clockwise direction around the property. All lines and curves shall show sufficient data on the map to calculate a map closure.

4. Monuments shall be labeled as "found" or "set," with a brief definitive description of the monument and relevant reference markers, if any, along with their positions in relation to the corner. This description shall include the physical characteristics of the monument and its relevance to the survey.

5. When the purpose of the survey dictates, all pertinent natural or manmade features located during the course of the field survey (water courses, streets, visible utilities, etc.) shall be labeled or represented by an appropriate symbol on the plat in its proper location. When appropriate, the feature should be dimensioned and referenced to the nearest property line.

6. ...

7. A statement indicating the origin of angles or bearings shall be shown on each plat, map, or drawing. If bearings are used the basis of the bearings shall include one or more of the following:

a.-b. ...

c. reference to the record bearing of a well established line found monumented on the ground as called for in a relevant deed, or survey plat;

d. when none of the above alternatives are practical, a magnetic bearing (corrected for declination) or assumed bearing may be used.

8. If a coordinate system other than the Louisiana Coordinate System is used on a map, that system must be identified. If that system is the Louisiana Coordinate System, the appropriate zone must be shown on the map.

9. Where the new survey results differ from the prior deed information in regard to course, distance, location or quantity, the plat shall indicate such differences or discrepancies.

10. ...

11. Cemeteries and burial grounds known by the surveyor to be located within the premises being surveyed should be indicated on the plat. However, a detailed survey of the limits of the cemetery shall not be required unless directed by the client.

12. ...

13. Original section, grant, subdivision or survey lines, when an integral part of the deed, shall be shown in proper location with pertinent labeling. A measurement of course

and distance must be shown to a parent tract corner, block corner, section corner, subdivision or grant corner, and existing monuments shall be indicated.

14.-16. ...

H.-H.4. ...

5. Every metes and bounds description may be written in at least two parts. The first part, called the "General Description," should indicate the general location of the property by naming the particular lot or block, etc., within which it is located if in a subdivision or by naming the grant or aliquot part of a rectangular section within which it is located, along with the township, range, land district and meridian (if applicable), city (if applicable), parish and state. The second part called the "Particular Description," shall logically compile and incorporate calls for the following:

a.-b. ...

c. monuments (when controlling), including descriptions of type, size, material, reference monuments (if applicable), and whether found, set or replaced;

d. ...

e. the area, if stated, shall be in square feet or acres or hectares within the tolerances specified in this Chapter.

6. ...

7. The courses in the written description shall be as brief and yet as explanatory as the surveyor can construct. Brevity should not cause important locative information to be omitted, and explanatory phrases should not enlarge the description to the extent of confusion.

8. Curved boundaries shall be identified as tangent or nontangent curves and sufficient data to define the cure shall be presented.

9. Curved boundaries shall be identified as tangent or nontangent curves and sufficient data to define the curve shall be presented. Each metes and bounds description must return to the point of beginning and close mathematically within the tolerances stated in this Chapter.

10. A statement at the end of the description should connect the description to the specific survey on which it is based and to the map or plat which depicts the survey. Such a statement may be phrased, "This description is based on the boundary survey and plat made by _____, Registered Professional Land Surveyor, dated _____" or "This description is based on plat recorded _____" (give recordation data).

11. The metes and bounds description shall then be signed and sealed by the surveyor.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:681, 682(9), 688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1065 (December 1990), amended LR 22:

§2509. Precision Specifications and Positional Tolerances

CONDITION	D RURAL	C SUBURBAN	B URBAN	A URBAN BUSINESS DISTRICT	REMARKS AND FORMULA
Unadjusted Closure (maximum allowable)	1:5,000	1:7,500	1:10,000	1:15,000	Traverse Loop or between Control Monuments
Angular Closure (maximum allowable)	30"√N	25"√N	15"√N	10"√N	N=Number of Angles in Traverse
Accuracy of Bearing	± 40 Sec.	± 30 Sec.	±20 Sec.	±15 Seconds	In Relation to Source
Linear Distances Accurate to: (maximum allowable)	0.1 ft. + ± 0.2 ft per 1,000 ft.	0.07 ft + ± 0.15ft per 1,000 ft	0.05 ft. ± ± 0.1 ft. per 1,000 ft	0.05 ft.± ± 0.05 ft. per 1,000 ft	Applies when the distance is not part of a closed traverse
Positional Tolerance and Positional Accuracy of Any Monument (Maximum)	0.2'+ AC/5,000	0.1'+ AC/7,500	0.1'+ AC/10,000	0.1'+ AC/15,000	AC=Length of Any Course*
Calculation of area - Accurate and carried to nearest ____ (decimal place) of an acre.	0.001 .01 .1 .3	0.001 .01 .1 .2	0.001 .001 .01 .1	0.001 .001 .01 .1	To 1 acre To 10 acres To 100 acres To 1,000 acres
Elevations for Boundaries Controlled by Tides, Contours, Rivers, etc. Accurate to:	0.5 ft.	0.4 ft.	0.3 ft.	0.2 ft.	Based on Accepted Local Datum
Location of Improvements Structures, Paving, etc. (Tie Measurements) Adjusted Mathematical Closure to Survey (Minimum)	± 1 ft. 1:50,000	± 0.5 ft. 1:50,000	± 0.2 ft. 1:50,000	± 0.1 ft. 1:50,000	

*Short courses in Categories "A" and "B" may generate Positional Errors of less than 0.01 feet. A minimum course distance of 200' should be used in calculating Positional Error.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:681, 682(9), 688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1068 (December 1990), amended LR 22:

A copy of the revisions of the rules is available for review by the public at the Board of Registration for Professional Engineers and Land Surveyors Office, 10500 Coursey Boulevard, Suite 107, Baton Rouge, LA 70816. Interested persons may call the office at (504) 295-8522 to make arrangements to review the Minimum Standards for Property Boundary Surveys. Written comments will be accepted, at the address stated above, through June 19, 1996.

H. Glen Kent, Jr., P.L.S.
Executive Secretary

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons on nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no estimated effects on competition and employment.

H. Glen Kent
Executive Secretary
9605#018

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Minimum Standards for Property
Boundary Surveys**

**Department of Wildlife and Fisheries
Office of Fisheries**

Special Pompano Permit (LAC 76:VII.703)

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs (savings) to state or local governmental units.

The Department of Wildlife and Fisheries does hereby give notice of intent to promulgate a rule (LAC 76:VII.703) to

amend the regulations governing the Pompano Permit Program. These regulations are required to effectuate the requirements of Act 1316 of the Regular Legislative Session. Authority for adoption of this rule is included in R.S. 56:406.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 7. Experimental Fisheries Program

§703. Pompano Permits

A. Harvest Regulations

1. Possession of a permit does not exempt the bearer from laws or regulations except for those which may be specifically exempted by the permit. Violation of a law pertaining to fishing, which carries a Class II penalty or greater shall constitute a violation of the permit.

2. Information gained by the department through the issuance of a permit is not privileged and will be disseminated to the public.

3. The bearer of a permit shall report monthly the catch and effort under the permit, even when catch or effort is zero. This report shall contain total catch, effort, and other parameters which may be required by the department. A report shall be received by the department no later than 10 days following the last day of each month.

4. When operating under the conditions of a permit, only pompano can be retained. All other species shall be immediately returned to waters from which they were caught. No other fish may be in the possession of the permittee and all fish on board the permitted vessel shall have the head and caudal fin (tail) intact.

5. The permittee shall have the permit in possession at all times when using permitted gear or harvesting permitted specie(s). Permit holder shall be on board permitted vessel when operating under conditions of permit. No permit is transferrable without written permission from the department secretary.

6. When permitted gear is on board permitted vessel or in possession of permittee, permittee and vessel are assumed to be operating under conditions of the permit. No gear other than permitted gear may be on board or in possession of permittee.

7. Any violation of the conditions of the permit shall result in the immediate suspension of the permit, and may result in the permanent revocation of the permit.

8. For permitting purposes, a pompano net shall be defined as a pompano strike net not exceeding 2,400 feet in length and not smaller than 2½ inches bar or 5 inches stretched mesh, that is not anchored or secured to the water bottom and that is actively worked while being used. A pompano net shall not be constructed of monofilament.

9. The permitted boat used in the program shall have a distinguishing sign so that it may be identified. The sign shall have the operator's permit number printed on it in at least 8-inch high letters on a contrasting background so as to be visible from low flying aircraft or from any other vessel in the immediate vicinity.

10. Pompano strike nets may be used during the period from August 1 through October 31 of each year in waters in excess of 7 feet in depth and beyond 2,500 feet from land

(excluding islands) within the Chandeleur and Breton Sound area described in R.S.56:406(A)(2).

11. No person shall fish under this permit during the hours after sunset and before sunrise. No person shall fish under this permit on Saturday or Sunday of any week during the open season, or on Labor Day.

12. Each pompano strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the permit number of the permit issued to commercially take pompano. The department shall not issue any tag to a person who does not have a social security number.

13. The department reserves the right to observe the operations taking place under the permit at any time and permittee shall be required to provide food and lodging on the permitted vessel for an observer at the request of the department.

14. All permittees shall notify the department prior to leaving port to fish under permitted conditions and immediately upon returning from permitted trip. The department shall be notified by calling a designated phone number.

B. Qualification for Permit

1. All permits shall be applied for and/or granted from January 1 to April 30 of each year. All permits expire December 31 following the date of issuance. All permits shall be returned to the department by January 31 following expiration.

2. Permits shall not be issued to any applicant who within three years of the date of his application, has been convicted or pled guilty to a Class II or greater fishery violation, as defined in the laws pertaining to wildlife and fisheries.

3. Applicants who have been convicted of, or have pled guilty to, two or more Class II or greater fishery violations within five years of the application date shall not receive a permit.

4. All potential permittees shall request an appointment by contacting Marine Fisheries Division personnel at 1600 Canal Street, New Orleans. Proof of ownership of the proposed permitted vessel(s) and proof that all applicable licenses have been applied for shall be provided at the time of appointment. Proof of bona fide residency, as defined in R.S. 56:8(12), is also required at this time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:406A(3).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:119 (February 1986), amended LR 12:846 (December 1986), amended Department of Wildlife and Fisheries, Office of Fisheries, LR 16:322 (April 1990), LR 22:

Interested persons may submit comments relative to the proposed rule to: Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to 4:30 p.m., July 3, 1996.

James H. Jenkins, Jr.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

RULE TITLE: Special Pompano Permit

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be on state or local governmental implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenues to any state or local governmental units from the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Rule intended to provide regulations consistent with Act 1316 (1995 Regular Session) for the existing permit program that allows fishing for pompano in Chandeleur and Breton Sound area. The proposed regulation would reduce the season, which opens on May 1 under present rules, providing for an August 1 opening date. Existing rules allow harvest of black drum, and a recreational limit of shark, cobia, and Spanish mackerel. Proposed rule would discontinue this allowance. This change may reduce the benefits received from fishing to the permit holders by decreasing the number of species available for allowable harvest (change required by statute). The dimensions of this change cannot be estimated at this time, due to lack of data. Benefits are realized as the permit program will allow harvest in areas otherwise disallowed. It thereby contributes to the local and state economy by increasing sales and employment. Direct costs to the fishermen for permits and fees would not be affected by the proposed rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This rule will have no estimable effect on competition and employment. While some effects may occur due to interactions with other fisheries under regulation, no data is presently available to estimate the dimensions of this change.

Fredrick J. Prejean
Undersecretary
9505#030

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**Physically-Challenged Hunter Permit
(LAC 76:XIX.105)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules governing the issuance and methods by which disabled hunters permits will be issued.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Title 76
WILDLIFE AND FISHERIES

Part XIX. Hunting

Chapter 1. Resident Game Hunting Seasons

§105. Physically Challenged Hunter Permit

A. Definitions

ATV—a small motorized vehicle designed for off road use, weighing less than 600 pounds, designed for no more than two passengers, with a maximum of six wheels, and tires with a manufacturers recommended air pressure of less than 10 pounds per square inch.

Amputee of the Upper Extremity—an individual suffering the loss of at least one arm, hand, or five fingers from one hand.

Commission—the Louisiana Wildlife and Fisheries Commission.

Commission Approved Physician—a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners that has entered into an agreement with the commission to evaluate permit applicants to determine if the applicants are permanently disabled as specified in the disabled hunter rule.

Department—the Louisiana Department of Wildlife and Fisheries.

Disabled Hunter Oversight Committee—a committee of five individuals which collectively have final authority to approve or deny, by majority vote, rejected applications for disabled hunter permits. The five members of the committee shall be appointed by the commission from the Louisiana Outdoorsmen With Disabilities Inc., Louisiana Handicapped Sportsmen, Inc., the Wildlife Division, the Enforcement Division, and the commission.

Disabled Hunter Permit—a permit issued by the Department of Wildlife and Fisheries to qualified disabled individuals.

Disabled Hunter Review Board—a board of five individuals which collectively review and approve or reject, by majority vote, applications for disabled hunter permits. The board shall be selected by the commission with recommendations from: the Louisiana Outdoorsmen with Disabilities Inc. (two recommendations), Louisiana Handicapped Sportsmen, Inc. (two recommendations), and the Louisiana Department of Health and Hospitals (one recommendation).

Enforcement Division—the Enforcement Division of the Louisiana Department of Wildlife and Fisheries.

Handicap ATV Permit—a permit issued by the Wildlife Division to certain disabled hunters to allow access to the specially designated handicapped ATV trails on Wildlife Management Areas.

Helper—an individual who accompanies a permitted disabled hunter to assist the disabled hunter in accessing a hunting area, carrying hunting gear, and retrieving harvested game.

Mobility Impaired—a permanent disability caused by injury, illness, or birth defect that prevents an individual from walking farther than very short distances (less than 150 yards) even with the help of mechanical aids.

Permanent Disability—a qualifying disability that a commission approved physician, the Disabled Hunter Review Board, and the Wildlife Division or the Disabled Hunter Oversight Committee have determined will not improve over time or with medical treatment.

Special Deer Season—a special deer season only for individuals with valid disabled hunter permits established by the Louisiana Wildlife and Fisheries Commission.

Special Handicapped Hunt—special hunt or hunts on certain W.M.A.s only for individuals with valid disabled hunter permits.

W.M.A.—a tract of land managed by the Louisiana Department of Wildlife and Fisheries and proclaimed as a Wildlife Management Area by the governor of Louisiana.

Wheelchair Bound—a permanent disability that prohibits mobility by any means other than a wheelchair.

Wildlife Division—the Wildlife Division of the Louisiana Department of Wildlife and Fisheries.

B. Wheelchair Bound

1. Qualifications

a. *Permanent Disability.* The disability must permanently confine the applicant to the use of a wheelchair. If the applicant may eventually recover enough to not require the use of a wheelchair, he or she does not qualify for this class permit. If the future prognosis is uncertain, the applicant does not qualify at this time.

b. Certification by Commission Approved Physician

i. Applicants must be certified permanently disabled and confined to a wheelchair by:

- (a). a commission approved physician;
- (b). the Disabled Hunter Review Board; and
- (c). the Wildlife Division.

ii. Should the commission approved physician determine the applicant is not permanently confined to a wheelchair for medical reasons, the application is rejected and no permit shall be issued. If approved by the physician, the application must then be approved by the Wildlife Division and the Disabled Hunter Review Board. Should either reject the application, it shall be forwarded to the Disabled Hunter Oversight Committee which shall make the final determination to approve or reject the application.

c. Disqualification

i. Applicants not disabled sufficiently to meet the confined to a wheelchair criterion shall not qualify for this class permit.

ii. Applicants with felony convictions or Class II or above wildlife convictions, as determined by the Enforcement Division, shall not be issued permits.

2. Approved Applicants Receive the Following Considerations

a. *Special Handicapped Hunts.* May participate in special W.M.A. hunts.

b. Special Deer Seasons

i. May participate in special statewide handicapped hunts.

ii. May take either-sex deer on private lands statewide during the entire gun deer season and during the muzzle loader season. This provision does not include

W.M.A.'s, National Wildlife Refuges, Kisatchie National Forest, or other federal properties.

c. *Crossbow.* May use a crossbow to archery hunt during the statewide archery season.

d. *Access To Wildlife Management Areas.* Upon request, permittees of this class shall receive a handicap ATV permit/sticker for access to specially designated ATV trails on W.M.A.s.

e. *Hunting from Vehicles.* May hunt resident game from a stationary vehicle or stationary boat statewide, provided that this activity does not violate state or parish laws.

f. *Helpers.* Permittee may be accompanied by helpers as necessary to get to and from a hunting area or stand and to assist in retrieving harvested game. Helpers may not use or possess firearms/bows/crossbows when acting as a helper unless the weapon is legal for the game hunted and the season is open to all licensed hunters in the area the helper is hunting.

3. Conditions of Approval

a. *Nontransferable.* The disabled hunter permit is nontransferable and is valid for named permittee only.

b. Permit in Possession

i. The permit must be carried by named permittee at all times while hunting in the field or transporting game harvested under the permit.

ii. Permittee must, in addition to the permit, carry one other form of picture identification while hunting or transporting harvested game.

c. *Helpers.* Helpers accompanying handicapped hunters are not permitted to carry firearms/bows/crossbows except as provided for by statewide or W.M.A. regulations. (See B.2.f.)

d. All Terrain Vehicles

i. ATVs may be used only on regular public ATV trails and handicapped ATV trails as specifically designated on W.M.A. maps.

ii. Approved individuals (permittees and helpers) may drive the ATV to a stand within 100 yards of an ATV trail. The ATV may also be used to retrieve the permittees harvested deer. Travel on an ATV beyond 100 yards of the designated trail, except to retrieve a deer, is prohibited.

iii. Permittee may not transport other nondisabled hunters or their harvested game, firearms/bows/crossbows or other equipment while on or within 100 yards of handicapped ATV trails.

e. *Other Licenses Required.* The issuance of a disabled hunter permit does not exempt the permittee from other license requirements. All applicable licenses required to hunt a particular species of game must be purchased and in the permittees possession while hunting.

f. Revocation

i. Any violation of the permit conditions by the permittee and/or helper of wildlife laws and/or regulations may result in cancellation of this permit.

ii. Should there be a change in the permittee's condition, the permittee must notify the Wildlife Division. If said change is sufficient to make the permanent use of a wheelchair unnecessary, the permit shall be revoked.

g. Duration

i. This permit is valid for the lifetime of named permittee or until revoked by the department.

ii. The department shall retain the right to change the duration and/or conditions of the disabled hunter permits to comply with future commission or legislative actions.

h. Cost

i. Disabled hunter permits shall be issued to approved applicants after payment of a \$10 issuing fee to the department.

ii. A reissuing fee of \$5 will be assessed for replacing lost or destroyed permits.

C. Mobility Impaired

1. Qualifications

a. Permanent Disability

i. The disability must be permanent and impair the applicant sufficiently to preclude walking farther than very short distances (less than 150 yards) even with mechanical aids. If the applicant may eventually recover, he or she does not qualify. If the future prognosis is uncertain, the applicant does not qualify at this time.

ii. Qualifying disabilities under this class may include, but are not limited to:

(a). permanent and continual use of artificial limbs, crutches, leg braces, or canes due to injury, disease, or birth defect;

(b). defects of circulatory system, respiratory system, skeletal structure, or neurological disorders caused by disease, injury, or birth defect.

iii. Nonqualifying disabilities may include, but are not limited to:

(a). vision impairment;

(b). arm, hand, shoulder, or other impairments that do not effect walking;

(c). any impairment considered to be a part of or resulting from the normal aging process;

(d). any impairment resulting from or due to a lack of physical conditioning.

b. Certification by Commission Approved Physician

i. Applicants must be certified permanently disabled and mobility impaired by:

(a). a commission approved physician;

(b). the Disabled Hunter Review Board; and

(c). the Wildlife Division.

ii. Should the commission approved physician determine the applicant is not permanently mobility impaired, the application is rejected and no permit shall be issued. If approved by the physician, the application must then be approved by the Disabled Hunter Review Board and the Wildlife Division. Should either reject the application, it shall be forwarded to the Disabled Hunter Oversight Committee which shall make the final determination to approve or reject the application.

c. Disqualification

i. Applicants not disabled sufficiently to meet the mobility impaired criterion shall not qualify for the class permit.

ii. Applicants with felony convictions or Class II or above wildlife convictions, as determined by the Enforcement

Division, shall not be issued permits.

2. Approved Applicants Receive the Following Considerations

a. Special Handicapped Hunts. May participate in special W.M.A. hunts.

b. Special Deer Seasons. May participate in special statewide handicapped hunts.

c. Access To Wildlife Management Areas. Upon request, permittees of this class shall receive a handicap ATV permit/sticker for access to specially designated ATV trails on W.M.A.s.

d. Helpers. Permittee may be accompanied by helpers as necessary to get to and from the hunting area or stand and to assist in retrieving harvested game. Helpers may not use or possess firearms/bows/crossbows when acting as a helper unless the weapon is legal for the game hunted and the season is open to all licensed hunters in the area the helper is hunting.

3. Conditions of Approval

a. Nontransferable. The disabled hunter permit is nontransferable and is valid for named permittee only.

b. Permit in Possession

i. The permit must be carried by named permittee at all times while hunting in the field or transporting game harvested under the permit.

ii. Permittee must, in addition to the permit, carry one other form of picture identification while hunting or transporting harvested game.

c. Helpers. Helpers accompanying handicapped hunters are not permitted to carry firearms/bows/crossbows except as provided for by statewide or W.M.A. regulations. (See C.2.d.)

d. All Terrain Vehicles

i. ATVs may be used only on regular public ATV trails and handicapped ATV trails as specially designated on W.M.A. maps.

ii. Permittee may not transport other nondisabled hunters or their harvested game, firearms/bows/crossbows or other equipment while on handicapped ATV trails.

e. Other Licenses Required. The issuance of a disabled hunter permit does not exempt the permittee from other license requirements. All applicable licenses required to hunt a particular species of game must be purchased and in the permittees possession while hunting.

f. Revocation

i. Any violation of the permit conditions by the permittee and/or helper of wildlife laws and/or regulations may result in cancellation of the permit.

ii. Should there be a change in the permittee's condition, the permittee must notify the Wildlife Division. If said change is sufficient to enable the permittee to walk more than 150 yards, the permit shall be revoked.

g. Duration

i. This permit is valid for the lifetime of named permittee or until revoked by the department.

ii. The department shall retain the right to change the duration and/or conditions of the disabled hunter permits to comply with future commission or legislative action.

h. Cost
i. Disabled hunter permits shall be issued to approved applicants after payment of a \$10 issuing fee to the department.

ii. A reissuing fee of \$5 will be assessed for replacing lost or destroyed permits.

D. Amputee of the Upper Extremity

1. Qualifications

a. Permanent Disability. The applicant must have an amputation of at least one arm, hand, or all five fingers of one hand to qualify for a permit of this class.

b. Certification by Commission Approved Physician

i. Applicants must be certified permanently disabled as an amputee of the upper extremity by a commission-approved physician.

ii. Should the commission approved physician determine the applicant is not an amputee of the upper extremity, the application shall be rejected. If approved by the physician, the application must then be approved by the Disabled Hunter Review Board and the Wildlife Division. Should either reject the application, it shall be forwarded to the Disabled Hunter Oversight Committee which shall make the final determination to approve or reject the application.

c. Disqualification

i. Applicants not disabled sufficiently to meet the amputee of the upper extremity criterion shall not qualify for this class permit.

ii. Applicants with felony convictions or Class II or above wildlife convictions, as determined by the Enforcement Division, shall not qualify for this permit.

2. Approved Applicants Receive the Following Considerations

a. Special Handicapped Hunts. May participate in special W.M.A. hunts.

b. Special Deer Seasons. May participate in special statewide handicapped hunts.

c. Access to Wildlife Management Areas. Upon request, permittees of this class shall receive a handicap ATV permit/sticker for access to specially designated ATV trails of W.M.A.s.

d. Crossbow. May use a crossbow to archery hunt during the statewide archery season.

e. Helpers. Permittee may be accompanied by helpers as necessary to get to and from the hunting area or stand and to assist in retrieving harvested game. Helpers may not use or possess firearms/bows/crossbows when acting as a helper unless the weapon is legal for the game hunted and the season is open to all licensed hunters in the area the helper is hunting.

3. Conditions of Approval

a. Nontransferable. The disabled hunter permit is nontransferable and is valid for named permittee only.

b. Permit in Possession

i. The permit must be carried by named permittee at all times while hunting in the field or transporting game harvested under the permit.

ii. Permittee must, in addition to the permit, carry one other form of picture identification while hunting or transporting harvested game.

c. Helpers. Helpers accompanying handicapped hunters are not permitted to carry firearms/bows/crossbows except as provided for by statewide or W.M.A. regulations. (See D.2.d.)

d. All Terrain Vehicles

i. ATVs may be used only on regular public ATV trails and handicapped ATV trails as specially designated on W.M.A. maps.

ii. Permittee may not transport other nondisabled hunters or their harvested game, firearms/bows/crossbows or other equipment while on handicapped ATV trails.

e. Other Licenses Required. The issuance of a disabled hunter permit does not exempt the permittee from other license requirements. All applicable licenses required to hunt a particular species of game must be purchased and in the permittees possession while hunting.

f. Revocation. Any violation of the permit conditions by the permittee and/or helper of wildlife laws and/or regulations may result in cancellation of this permit.

g. Duration

i. This permit is valid for the lifetime of named permittee or until revoked by the department.

ii. The department shall retain the right to change the duration and/or conditions of the disabled hunter permits to comply with future commission or legislative action.

h. Cost

i. Disabled hunter permits shall be issued to approved applicants after payment of a \$10 issuing fee to the department.

ii. A reissuing fee of \$5 will be assessed for replacing lost or destroyed permits.

AUTHORITY NOTE: Promulgated in accordance with Act 1226 of the 1995 Louisiana Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22: Interested persons may submit comments relative to the proposed rule to Tommy Prickett, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898 prior to 4:30 p.m., Tuesday, July 2, 1996.

Glynn Carver
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Physically Challenged—Hunters Permit**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Louisiana Department of Wildlife and Fisheries (LDWF) has been directed by Act 1226 of the 1995 Legislature to develop physically challenged hunter permit. Development of the rules and regulations will require 20 biologist days at a cost of \$3,510.40. Approval of the first year permits, estimated at 1,000 permits, will cost a total cost of \$10,970. Issuance of permits is estimated to cost \$4,375. Complete first year implementation is estimated to be \$18,855.40. Subsequent years are estimated to cost \$1,534.50 annually. These costs will be absorbed within the appropriate fiscal year budget and no additional cost appropriations will be necessary.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The LDWF plans on charging a fee to those persons applying for a Physically Challenged Hunter Permit. The fee proposed will be \$10 and will generate, based on 1,000 permits issued in the first year, \$10,000. Revenues collections of subsequent years are estimated to be \$1,000.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Persons wishing to obtain a physically challenged hunter permit will be required to visit a physician selected by the department to determine their eligibility for this special permit. It is estimated the an office visit of this nature will cost approximately \$50. This cost, plus the permit, will result in a one time expenditure to the applicant of \$60.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is our opinion that there will be no effect on competition and employment.

Fredrick J. Prejean
Undersecretary
9605#032

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Reef Fish Daily Take and Size Limits (LAC 76:VII.335)

The secretary of the Department of Wildlife and Fisheries, acting under authority granted by the Louisiana Wildlife and Fisheries Commission by resolution dated February 8, 1996 does hereby give notice of intent to amend a rule (Title 76:VII.335.G.1) raising the minimum size limit for red snapper harvested commercially, which is part of the existing rule for daily take, possession, and size limits for reef fishes set by the commission. Authority for adoption of this rule is included in R.S. 56:6(25)(a), 56:326.1 and 56:326.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§335. Daily Take, Possession and Size Limits Set by Commission, Reef Fish

* * *

G.	Species	Minimum Size Limits
1.	Red Snapper	15 inches total length (commercial) 15 inches total length (recreational)

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:326.1 and 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:

Interested persons may submit written comments on the proposed rule to Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Wednesday, July 3, 1996.

James H. Jenkins, Jr.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Reef Fish Daily Take and Size Limits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no state or local governmental implementation costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenues to any state or local governmental units from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Rule is intended to provide consistent regulations for commercial fishers for red snapper in state waters and in adjacent federal waters. The proposed regulation would increase the minimum size limit from 14 inches to 15 inches (total length) for these harvesters. This change will reduce harvest efficiency by reducing the number of smaller red snapper available for commercial harvest. There is a slightly higher dockside price per pound for the smaller sized fish. Reduction of harvest of this size fish will slightly reduce revenues from the harvest of the species. This change is estimated to be about \$3000 per year over the state fishery. Long-term economic benefits of an undetermined magnitude may also accrue to fishermen in both recreational and commercial sectors as a result of a small increase in the size of red snapper stocks protected by the proposed limits. The dimensions of this benefit are not estimable at this time, due to lack of data. Direct costs to the fishermen for permits and fees would not be affected by the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule may provide a slight negative effect on employment in the short term. Proposed rule may slightly reduce the short-term economic benefits from the commercial harvest of the species, thereby reducing employment potential. Some of these persons may redirect their fishing effort into other geographic areas, or into non-fishing activities. No data is presently available to estimate the dimensions of this change.

Fredrick J. Prejean
Undersecretary
9605#031

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Timken Wildlife Management Area Visitor
(LAC 76:III.327)

The Wildlife and Fisheries Commission hereby announces its intent to adopt a rule establishing visitor regulations for Timken Wildlife Management Area.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part III. State Game and Fish Preserves and Sanctuaries

Chapter 3. Particular Game and Fish Preserves and Commissions

§327. Timken Wildlife Management Area

A. Visitors Regulations

1. Morning hunting only on all game (closed 12 noon). All nighttime activities prohibited (including frogging) from 30 minutes after official sunset to one and one-half hours before sunrise.

2. Basic resident and nonresident hunting licenses will serve as season permits on Timken Wildlife Management Area (hereinafter "Timken"). If daily permits are required, they may be obtained from permit stations located on or near Timken. Hunters must check out daily one-half hour after the end of the legal shooting hours.

3. All hunting seasons are set by the Louisiana Wildlife and Fisheries Commission and seasons may be altered or closed anytime by the department in emergency situations (floods, disease outbreaks or other critical circumstances).

4. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms are not allowed in boats under motor power on Timken. Firearms may not be carried on any area before or after permitted hours. Bows and arrows are not permitted on Timken except during regular archery season or except as permitted for bowfishing. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists. Loaded firearms are not permitted near check stations or headquarters facility. Target shooting and other forms of practice shooting are prohibited on Timken.

5. Construction of and hunting from permanent blinds on Timken is prohibited. Any permanent stand or permanent blind will be destroyed. A permanent blind or stand is defined as any structure and/or material, including vegetation, used for concealment while hunting, that is not completely dismantled or removed from the wildlife management area daily. All waterfowl hunters must dismantle blinds and remove decoys

within 30 minutes after close of shooting hours. Unattended decoys will be confiscated and forfeited to the Department of Wildlife and Fisheries (hereinafter "department") and disposed of by the department.

6. Except for bird hunting, duck hunting, and rabbit hunting when allowed, having or using dogs on Timken is prohibited. Only recognizable breeds of bird dogs and retrievers are permitted for migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on Timken during experimental rabbit season.

7. Commercial fishing is prohibited.

8. Recreational Fishing

a. Shrimp may be taken by the use of cast nets only. During the inside open shrimp season 25 pounds per boat per day (heads on) shall be permitted. Size count to conform with open season requirements. During the inside closed season 10 pounds per boat per day, heads on may be taken for bait.

b. Oysters may be taken from natural reefs and opened at the site. A maximum of one gallon per boat is permitted and all shell must be thrown back onto the reef. Possession of unshucked oysters is not permitted. Taking of oysters on the reef is dependent upon Department of Health and Hospitals' approval and may be closed at any time by the department.

c. Fish may be taken by rod and reel or hand lines for recreational purposes only.

d. Crabs may be taken through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs are allowed per boat or vehicle per day.

e. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight.

f. The harvest of all fish, shrimp, oysters, crabs and crawfish are for recreational purposes only and any commercial use is prohibited.

9. Boats powered by internal combustion engines having horsepower ratings above 25 H.P. are permitted only in oil company access canals. Operation of the above described internal combustion engines in interior ditches are prohibited.

10. Pulling boats over levees, dams, or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited.

11. The use of airboats, aircraft, hover craft, all-terrain vehicles and all-terrain cycles and motorcycles are prohibited except as specifically authorized by department personnel.

12. Disorderly conduct or hunting under the influence of alcoholic beverages, chemicals and other similar substances is prohibited. Possession of controlled dangerous substances (drugs) onto the wildlife management area is prohibited. All boats and vehicles are subject to search by authorized employees of the department at anytime.

13. Trapping is allowed only by written agreement with the department.

14. Burning of the marshes is prohibited. Water control structures are not to be tampered with or altered by anyone other than employees of the department at anytime. Damage to or removal of trees, shrubs and wild plants on Timken without prior approval is prohibited.

15. No littering allowed.

16. Violation of any part of this section constitutes a class two violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 et seq. and 56:109.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:

Interested persons may submit written comments on the proposed rule to James Manning, Assistant Administrator, Fur and Refuge Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Wednesday, July 3, 1996.

Glynn Carver
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Timken Wildlife Management Area Visitor Regulations

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No additional costs or savings to state or local governmental units are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no anticipated increases or decreases in revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs to visitors to the refuge. Visitors will receive an undetermined economic benefit due to increased use of the management area.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be little or no effect on competition and employment.

Fredrick J. Prejean
Undersecretary
9605#029

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Waddill Wildlife Refuge (LAC 76:III.325)

The Wildlife and Fisheries Commission hereby announces its intent to adopt a rule establishing visitor regulations for Waddill Wildlife Refuge.

The secretary of the Department of Wildlife and Fisheries

is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part III. State Game and Fish Preserves and Sanctuaries

Chapter 3. Particular Game and Fish Preserves and Commissions

§325. Waddill Wildlife Refuge

A. Purpose. Waddill Wildlife Refuge will be actively managed as a wildlife educational and learning area for youth groups, nonconsumptive users, and as a hunter safety and aquatic education training center. The following rules and regulations concerning the management, protection and utilization of this refuge have been adopted by the Louisiana Wildlife and Fisheries Commission. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the refuge.

B. General

1. Access to the refuge will only be allowed through the front entrance bordering Flannery Road. All visitors will sign the register at the front office. A group of individuals may have a representative sign for the group by indicating the number in the group. Individuals less than 16 years of age must be accompanied and supervised by a person 18 years of age or older.
2. Vehicles are allowed only in designated areas and must park in provided spaces. ATV's, trail bikes, horses and mules are strictly prohibited. Restricted areas will be established for specific activities and visitors will not enter these areas unless they are part of the specific activity allowing access to that area.
3. All dogs are prohibited unless participating in a department-sponsored activity, such as a retriever demonstration during an educational activity. All dogs running at large are prohibited; and the owner or handler of said dogs will be held liable for any personal injury or property damage, and will be subject to criminal citation.
4. Citizens are cautioned that by entering the refuge they or their vehicles may be subject to license checks, inspections and searches. Wildlife officers will have the duty and right to restrict access to the refuge as necessary.
5. Refuge hours will be set by the Fur and Refuge Division (hereinafter "division") and will be posted at the entrance. All visitors will abide by the posted hours. Educational activities may be held outside the normal open hours of the refuge by prior arrangement and permission of the division. All participants of these activities will confine their use of the refuge to the designated area of the activity.
6. Hunting, pursuing, killing, molesting, or intentionally disturbing any type of wildlife is prohibited; provided that the department may conduct activities necessary to properly manage wildlife on the area.
7. Camping is prohibited; provided that the division is authorized to establish and maintain specific camping areas

for use by organized groups under policy established by the division. If areas are established, they will not be used by the public.

8. Littering is prohibited. Visitors must remove their litter or place litter in appropriate litter disposal containers.

9. Damage to or removal of trees, shrubs, flowers, or wild plants is strictly prohibited.

10. The possession of firearms, bows, liquor and controlled dangerous substances by the public on the refuge is prohibited; provided that the division is authorized to construct, maintain and operate ranges, in which case, shotguns and bows will be permitted under guidelines developed by the division.

11. Access to all nature trails is limited to pedestrians only. No vehicles, ATV's, trail bikes, horses or mules are allowed. Individuals utilizing the nature trails must remain on the designated trail. No picnicking is allowed on the trails. All trash must be disposed of in designated litter containers.

12. Individual groups may submit written requests to reserve a specific part of the refuge for a special group event. The remaining unreserved portion of the refuge shall be open to the public.

13. Violation of any part of this section constitutes a class two violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 et seq. and 56:109.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22: .

Interested persons may submit written comments on the proposed rule to James Manning, Assistant Administrator, Fur and Refuge Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Wednesday, July 3, 1996.

Glynn Carver
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Waddill Wildlife Refuge Visitor Regulations

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No additional costs or savings to state or local governmental units are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no anticipated increases or decreases in revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs to visitors to the refuge. Visitors will receive an undetermined economic benefit due to increased use of the refuge.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be little or no effect on competition and employment.

Fredrick J. Prejean
Undersecretary
9605#028

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

Committee Reports

COMMITTEE REPORT

House Insurance Committee May 8, 1996

Viatical Settlements-Regulation 58

(Editor's Note: The full text of this proposed rule can be viewed on pages 148-150 in the February 1996 *Louisiana Register*.)

Pursuant to the provisions of R.S. 49:968, the House of Representatives Insurance Committee met on May 8, 1996 to review proposed Regulation 58, relative to viatical settlements submitted by the Department of Insurance.

There was lengthy testimony and discussion of the entire regulation. The committee found that a number of provisions needed modification and after a motion to reject with suggestions on changes to the proposed regulation, voted unanimously to reject proposed Regulation 58.

The following provisions were objected to by the committee:

1. Section 5(D)(G)

(a) Paragraph (D). This provision of the regulation provides for the *cancellation* of a license. The enabling legislation provides for *revocation* only. Use of the term "cancellation" is beyond the scope of the enacting legislation, therefore, the committee suggested that the word cancellation be replaced with revocation.

(b) Paragraph (G). This provision requires that a minimum capital requirement be established. Testimony from representatives of the department indicated that this language referenced a deposit of cash or cash equivalents only. The enabling legislation at R.S. 22:210(A)(3) permits the establishment of the capital requirement with a bond or deposit. Failure to include authority for use of a bond is not in conformity with the intent of the enabling legislation; therefore, the committee suggested that this provision include the authority to use a bond to establish the capital requirement.

2. Section 6(D)

This provision provides for the issuance of a limited license to persons wishing to become a viatical settlement broker. The enabling legislation provides for no such authority, therefore, this provision is beyond the scope of the enabling legislation. The committee suggested that this language be deleted from the regulation.

3. Section 7

The first three sentences of this section are found in the enabling legislation at R.S. 22:205 and are therefore unnecessary. The committee suggested deleting these sentences.

4. Section 9

(a) The first paragraph of this section, including the indented language, requires *minimum discounts* on the face

value of a policy. The enabling legislation at R.S. 22:209(C)(1) mandates *minimum amounts* of the face value of a policy to be paid to a person selling a life insurance policy. This provision is not in conformity with the intent of the enabling legislation; therefore, the committee suggested deleting this language.

(b) The Department of Insurance is required by R.S. 22:209(C)(3) to establish rules and regulations detailing the procedure for obtaining a variance. The regulation is devoid of any such procedure and therefore not in conformity with the intent of the enabling legislation. The committee suggested that the department include a procedure as required by R.S. 22:209(C)(3).

5. Section 10(B)

This section of the regulation permits installment payments of the proceeds received pursuant to a viatical settlement. The enabling legislation at R.S. 22:209(E) provides that the proceeds be transferred immediately. This provision is beyond the scope of the enabling legislation; therefore, the committee suggested that the last sentence of Section 10(B) be deleted.

The representatives of the Department of Insurance concurred in these substantive changes and agreed to resubmit the rule with the aforementioned changes following review by the governor.

Representative James J. Donelon
Chairman

9605#053

Potpourri

POTPOURRI

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Horticulture Commission

Retail Floristry Examination

The next retail floristry examination will be given July 22-26, 1996, at 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending application and fee is June 21, 1996.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118; telephone (504) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to June 21, 1996. If you have any questions, please call the office at (504) 925-7772.

Bob Odom
Commissioner

9605#033

POTPOURRI

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

Fugitive Emission Program Coordinator

On April 17, 1996, the Department of Environmental Quality and U.S.E.P.A. executed a Memorandum of Understanding concerning the implementation and enforcement of state and federal fugitive emission control programs as they apply to industrial sources in Louisiana. The agreement recognizes guidelines by which a source may comply with multiple equipment leak programs where the applicability of such programs overlaps at a site. The guidelines rely on the overall most stringent program of all applicable programs at the source to form the basis of a consolidated program.

To implement a consolidated program, facilities would apply the overall most stringent program in accordance with a specified set of terms and conditions under the guidelines. The guidelines can be implemented only through a notice and agreement submitted by the source, specifying where the overall most stringent program would be applied at the site. Facilities must submit the Source Notice and Agreement to the address noted below, and must attach the Louisiana Fugitive Emission Program Guidelines, as provided by DEQ.

The guidelines and the notice and agreement forms, as well as an example Source Notice and Agreement, are available on the Air Quality Permits Section Bulletin Board or by request from DEQ. Source information will be maintained in files accessible to the public at the DEQ and EPA Region 6 offices. To assist in informing the public, DEQ will periodically publish a list of sources operating under the guidelines. In addition, terms providing for a consolidated program under the guidelines will be incorporated in the source's air quality permit to be issued under Title V of the Clean Air Act.

Facilities planning to consolidate RCRA Subparts BB and/or CC fugitive programs must first contact the LDEQ Hazardous Waste Division - Permits Section at (504) 765-0272 before submitting the Source Notice and Agreement to the Air Quality Division. Approval by the LDEQ Hazardous Waste Division, as well as a possible permit modification, will be required before the facility can consolidate RCRA Subparts BB and CC.

If you have questions concerning this program, please contact: Bliss Higgins at (504) 765-0114, or Bennett Farrier at (504) 765-0148, or Donna Hathaway at (504) 765-0132. Please direct submittals to: LDEQ, Bennett Farrier, Air Quality Division/Engineering, Box 82135, Baton Rouge, LA 70884-2135.

Gus Von Bodungen, P.E.
Assistant Secretary

9605#070

POTPOURRI

**Office of the Governor
Oil Spill Coordinator's Office**

State Oil Spill Contingency Plan

In accordance with R.S. 30:2459, the Louisiana State Oil Spill Contingency Plan (SCP) defines the way the state of Louisiana will respond to actual or threatened unauthorized discharges of oil and direct clean up of pollution from such discharges. In 1995, the SCP was developed in cooperation with local, state, and federal agencies who regulate oil spill response, clean up, and restoration activities.

The SCP will undergo an annual review. Recommendations for changes to the SCP are welcome at any time, but should be received on or before June 14, 1996 for possible incorporation in this year's revision. Comments to the SCP should be sent to: Roland J. Guidry, Oil Spill Coordinator, Louisiana Oil Spill Coordinator's Office, Office of the Governor, Box 94095, Baton Rouge, LA 70804.

If you should have any questions, please call (504) 922-3230.

Any changes to the SCP will be published in the *Louisiana Register* in September of 1996.

Roland J. Guidry
Oil Spill Coordinator

9605#068

POTPOURRI

**Department of Natural Resources
Office of Conservation
Injection and Mining Division**

**Nonhazardous Oilfield Waste Transfer
Station Application—Hearing**

Pursuant to the provisions of the laws of the State of Louisiana and particularly Title 30 of the Louisiana revised statutes of 1950 as amended, and the provisions of Statewide Order Number 29-B, notice is hereby given that the commissioner of conservation will conduct a hearing at 6 p.m., Wednesday, June 26, 1996, in the Thibodaux City Court Room, located on the second floor of Starks Municipal Complex, 1309 Canal Boulevard in Thibodaux, Louisiana.

At such hearing, the commissioner or his designated representative will hear testimony relative to the application of Newpark Environmental Services, Box 31480, Lafayette, LA 70593-1480. The applicant intends to construct and operate a commercial nonhazardous oilfield waste transfer station in Section 14, Township 23 South, Range 22 East approximately 0.3 mile North-Northeast of Newpark's current commercial nonhazardous oilfield waste transfer station in Port Fourchon, LA.

The application is available for inspection by contacting Pierre Catrou, Office of Conservation, Injection and Mining Division, Room 257 of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA, or by visiting the Lafourche Parish Police Jury Office in Thibodaux, LA. Verbal information may be received by calling Mr. Catrou at (504)342-5567.

All interested persons will be afforded an opportunity to

present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., July 3, 1996, at the Baton Rouge Office. Comments should be directed to: Office of Conservation, Injection and Mining Division, Box 94275, Baton Rouge, LA 70804, Re: Docket Number IMD 96-08, Commercial Transfer Station, Lafourche Parish.

George L. Carmouche
Commissioner

9605#069

POTPOURRI

**Department of Social Services
Office of the Secretary
Child Care Assistance Program**

Child Care and Development Block Grant Public Hearing

The Department of Social Services, Office of the Secretary, Child Care Assistance Program is providing notice that there will be a public hearing regarding the proposed State Plan for the Child Care and Development Block Grant. The public hearing will be held at 9:30 a.m., June 10, 1996 in the second floor auditorium, A. Z. Young Building, 755 Third Street, Baton Rouge, LA.

At the public hearing all interested persons will have the opportunity to provide recommendations orally or in writing on the proposed State Plan. Written comments will be accepted through June 10, 1996. Comments may be addressed to Linda Beauvais, Director, Child Care Assistance Program, Box 91193, Baton Rouge, LA 70821. The State Plan is available for review at any regional CCAP Office.

Madlyn B. Bagneris
Secretary

9605#067

POTPOURRI

**Department of Transportation and Development
Sabine River Compact Administration**

Spring Meeting Notice

The spring meeting of the Sabine River Compact Administration will be held at the Omni Royal Orleans, New Orleans, LA on Friday June 7, 1996, at 9:30 a.m. The Engineering Committee will meet on June 6, 1996, at 2 p.m. at the same location.

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 fall meeting will be held at a site in Texas to be designated at the above described meeting.

Contact person concerning this meeting is Mary H. Gibson, Sabine River Compact Administration, 15091 Texas Highway, Many, LA 71449, telephone (318) 256-4112.

Mary H. Gibson
Secretary

9605#017

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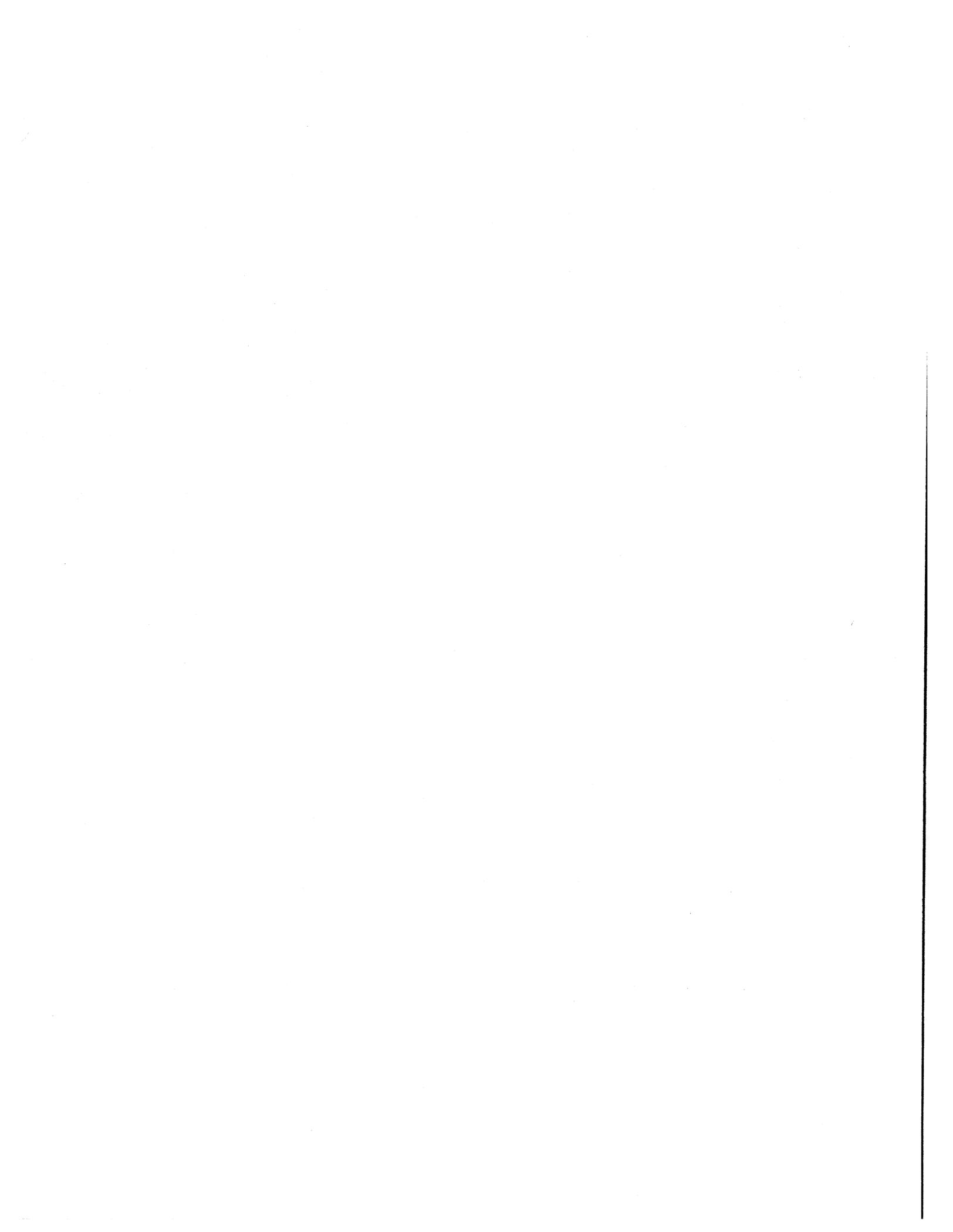
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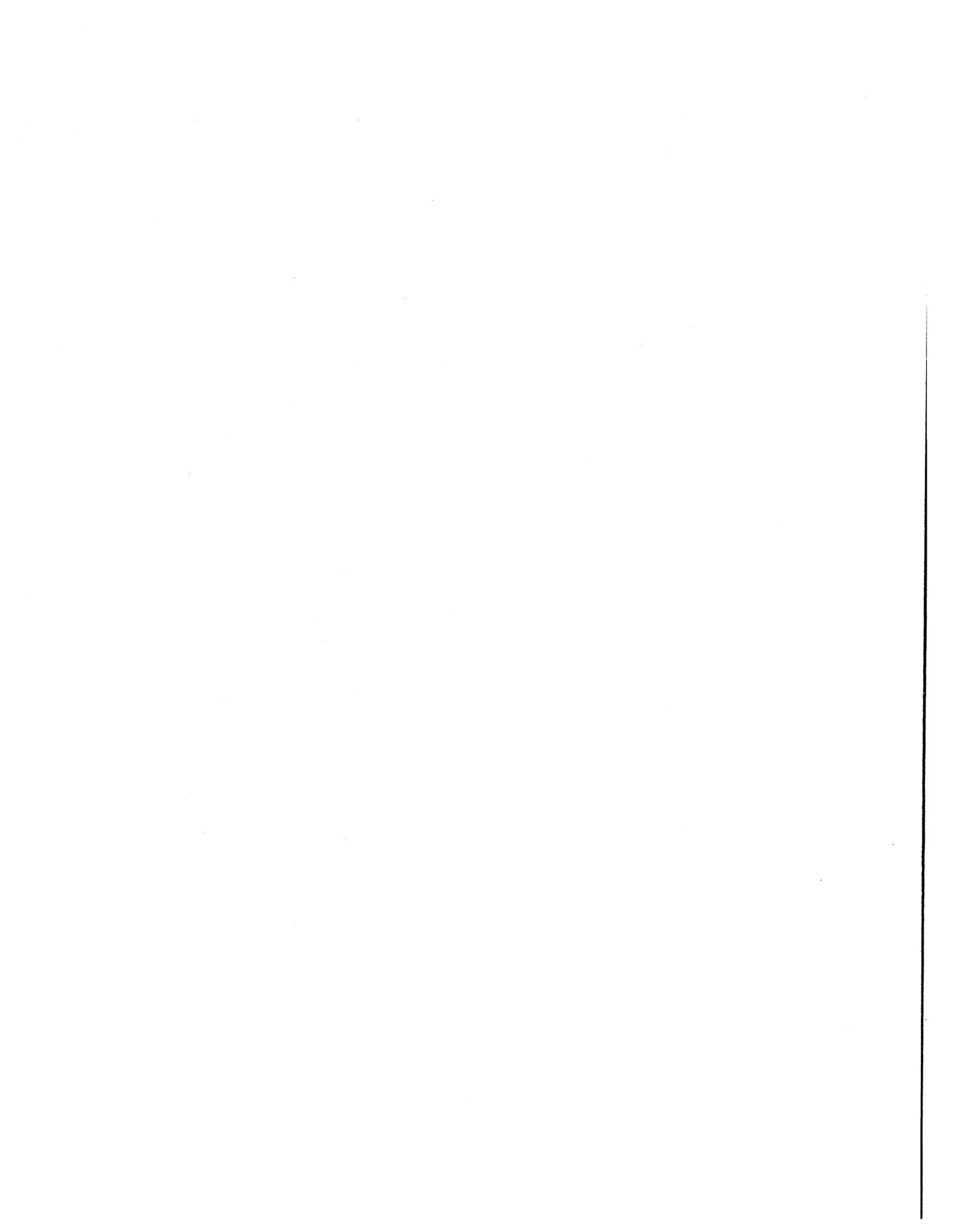
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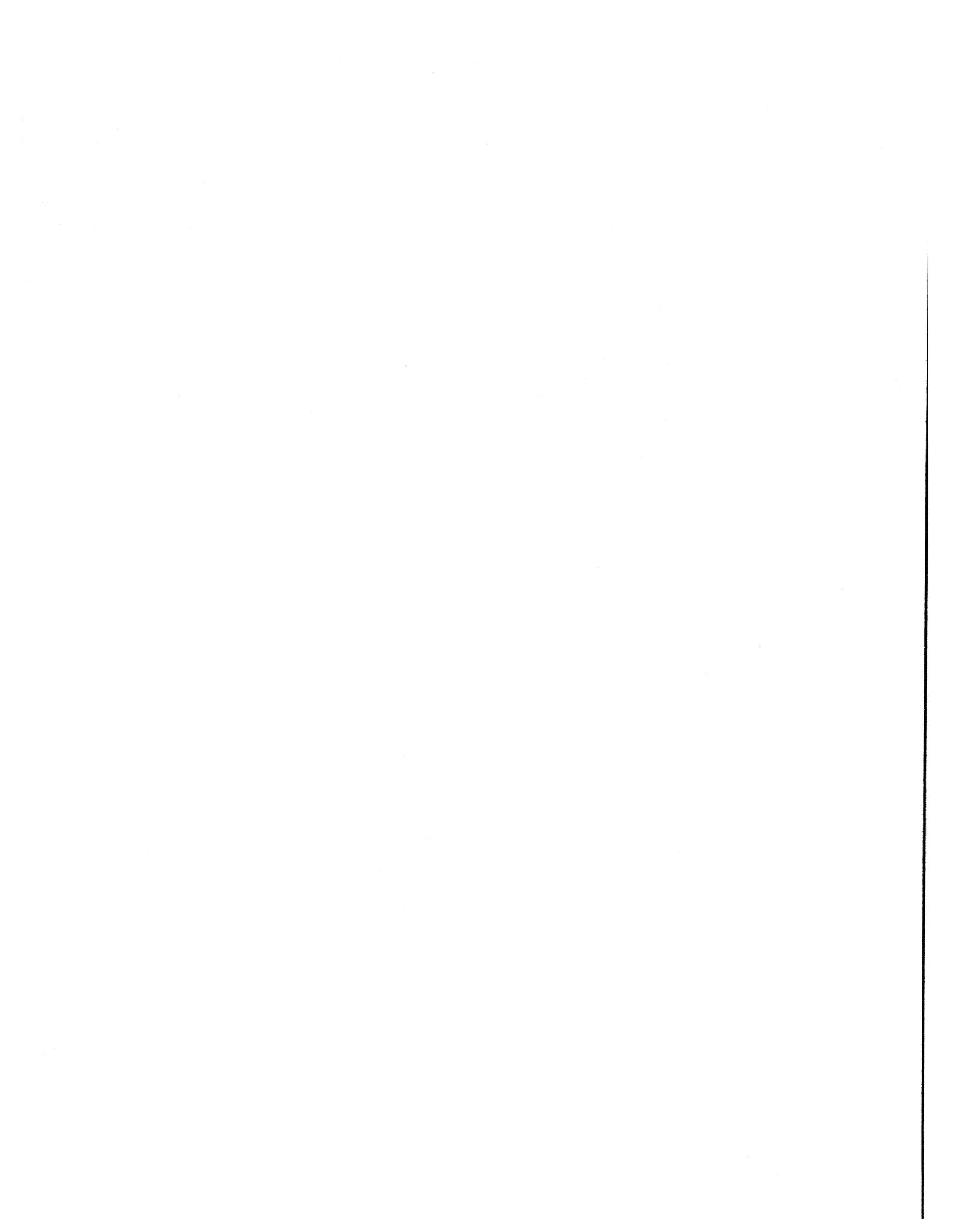
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