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Executive Orders

EXECUTIVE ORDER EWE 92-42

WHEREAS, pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order BR 88-35 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 1992 (the "1992 Ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1992 Ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Public Facilities Authority has requested an allocation in the amount of $25,000,000 from the 1992 Ceiling to be used in connection with the expansion, improvement and renovation of the water system for the Baton Rouge Water Company; and

WHEREAS, the governor has determined that the project serves a crucial need and provides a benefit to the State of Louisiana, the Parish of East Baton Rouge, and surrounding parishes; 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 the Executive Order BR 88-35, supercedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, 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 1992 Ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF INSURER	NAME OF PROJECT
$25,000,000	Louisiana Public Facilities Authority	The Baton Rouge Water Company

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 effect through August 29, 1992, provided that such bonds are delivered to the initial purchasers thereof on or about August 29, 1992.

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 BR 88-35, supercedes 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 hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 25th day of June, 1992.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 92-43

WHEREAS, pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order BR 88-35 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, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1992 (the "1992 Ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1992 Ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS, the Town of Vivian has requested an allocation in the amount of $1,850,000 from the 1992 Ceiling to the used in connection with the acquisition, construction, and installation of a boat manufactory facility in Vivian; and

WHEREAS, the governor has determined that the project serves a crucial need and provides a benefit to the State of Louisiana, and the Town of Vivian; 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 BR 88-35, supercedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, 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 1992 Ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF INSURER	NAME OF PROJECT
$1,850,000	Town of Vivian	Vivian Industries, Inc.

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 effect through August 29, 1992, provided that such bonds are delivered to the initial purchasers thereof on or about August 29, 1992.

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 BR 88-35, supercedes 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 hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 25th day of June, 1992.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 92-44

WHEREAS, pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order BR 88-35 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 1992 (the "1992 Ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1992 Ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Public Facilities Authority has requested an allocation in the amount of $3,000,000 from the 1992 Ceiling to be used in connection with the construction and equipping of an addition to an industrial laundry equipment manufacturing facility in Kenner; and

WHEREAS, the governor has determined that the project serves a crucial need and provides a benefit to the State of Louisiana, and the City of Kenner; 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 the Executive Order BR 88-35, supercedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, 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 1992 Ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF INSURER	NAME OF PROJECT
$3,000,000	Louisiana Public Facilities Authority	Pellerin Milnor Corporation

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 effect through August 29, 1992, provided that such bonds are delivered to the initial purchasers thereof on or about August 29, 1992.

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 BR 88-35, supercedes 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 hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 25th day of June, 1992.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 92-45

WHEREAS, the State of Louisiana has three federally recognized sovereign Indian Tribes within its borders: the Chittamacha Tribe of Louisiana, the Coushatta Tribe of Louisiana, and the Tunica-Biloxi Indians of Louisiana; and

WHEREAS, in 1988, Congress provided federal statutory requirements for gaming activities on Indian reservation lands with the enactment of the Indian Gaming Regulatory Act; and

WHEREAS, federal, state, and Indian law and jurisprudence on the issues pertaining to Indian gaming are highly technical and complex; and

WHEREAS, the state of Louisiana has certain rights and obligations pursuant to this law and jurisprudence; and

WHEREAS, the Coushatta Tribe of Louisiana and the Tunica-Biloxi Indians of Louisiana have requested to commence negotiations with the state towards a Tribal-State Compact for the conduct of Class III gaming; and

WHEREAS, the Indian Gaming Regulatory Act provides that upon lapse of 180 days after such formal request, an Indian Tribe may initiate a cause of action in a United States District Court for the failure of the state to enter into negotiations, or for the failure of the state to conduct negotiations in good faith; and

WHEREAS, the Coushatta Tribe of Louisiana and the Tunica-Biloxi Indians of Louisiana have entered into agreements with the state which extend by 90 days the 180 day deadline imposed by the Indian Gaming Regulatory Act; and

WHEREAS, Governor Edwin W. Edwards, through the office of the Executive Counsel to the Governor, and with the assistance of the Governor's Commission on Indian Affairs,

the Department of Public Safety and Corrections, the Department of Revenue and Taxation, and the Department of Justice, has been engaging in meaningful discussions on Indian gaming with the Coushatta Tribe of Louisiana and the Tunica-Biloxi Indians of Louisiana; and

WHEREAS, the creation of a Governor's Advisory Board on Indian Gaming within the Executive Department, Office of the Governor, will provide the State with additional resources and perspectives on issues relative to Indian gaming;

NOW THEREFORE, I EDWIN W. EDWARDS, 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 create and establish the Governor's Advisory Board on Indian Gaming within the Executive Department, Office of the Governor, and do hereby order and direct as follows:

SECTION 1: The Governor's Advisory Board on Indian Gaming is created and established within the Executive Department, Office of the Governor.

SECTION 2: The Governor's Advisory Board on Indian Gaming shall be composed of seven members who shall be appointed by and serve at the pleasure of the governor. Members of the Governor's Advisory Board on Indian Gaming shall not receive any compensation for their services.

SECTION 3: The duties and functions of the Governor's Advisory Board on Indian Gaming include, but are not limited to, the collection and analysis of information relative to Indian gaming, working in cooperation with the Executive Counsel to the governor and the Governor's Commission on Indian Affairs, providing the governor with advice and assistance on Indian gaming, submitting recommendations and conclusions to the governor through a written report within 60 days of issuance of this executive order, and other duties and functions as directed by the governor.

SECTION 4: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Governor's Advisory Board on Indian Gaming in implementing the provisions of this executive order.

SECTION 5: The provisions of this executive order shall be effective upon signature.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana at the Capitol, in the City of Baton Rouge on this 30th day of June, 1992.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 92-46

WHEREAS, the unique natural beauty of Louisiana deserves to be shared with and enjoyed by the traveling public to the fullest extent possible; and

WHEREAS, the Federal Highway Administration administers the Intermodal Surface Transportation Efficiency Act of 1991 and the Scenic By-Way Program Grant Funds, and requires participating states to designate an agency to be responsible for the state's Scenic By-Way Program; and

WHEREAS, the Louisiana Tourism Development Commission has the capacity to properly administer this program and is an appropriate entity for designation;

NOW THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested me by in the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Louisiana Tourism Development Commission is designated as the agency responsible for the Scenic By-Way Program Grant Funds.

SECTION 2: The duties and functions incumbent upon the Louisiana Tourism Development Commission pursuant to this designation include, but not limited to, the submission of Louisiana's grant application for participation in the Scenic By-Way Program, assuring that any and all grant monies realized from the Scenic By-Way Program are spent in accordance with the terms and conditions imposed by the Federal Highway Administration, and other duties and functions as designated by the governor.

SECTION 3: All departments, commissions, boards, agencies, and officers of the state, or of any political subdivision thereof, are authorized and directed to cooperate with the Louisiana Tourism Development Commission and the Federal Highway Administration in implementing the provisions of this executive order.

SECTION 4: This executive order shall be effective upon signature.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 30th day of June, 1992.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 92-47

WHEREAS, the Tax Reform Act of 1986 (the "Act"), restricts the total principal amount of certain private activity bonds the interest on which is excludable from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (including the portion of government use bonds allocated to non-governmental use which is required by the Act to receive an allocation as herein provided) (such bonds sometimes referred to herein as "Bonds") which may be issued within the state of Louisiana (the "state") during each calendar year to a dollar amount equal to $50 per person based on the most recently published estimate of population for the state released by the United States Bureau of Census before the beginning of each such calendar year; and

WHEREAS, by Executive Order No. 88-35 effective September 1, 1988 ("88-35") and under the authority of and pursuant to the Act and Act No. 51 of the 1986 Regular Session of the Legislature ("Act 51 of 1986"), the governor of the state established (i) a method for the allocation of bonds subject to the private activity bond volume limits (the "ceiling"),

(ii) the procedure for obtaining an allocation of bonds under the ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS, 88-35 will expire on August 21, 1992; and

WHEREAS, as authorized by the Act and Act 51 of 1986, the governor of the state now desires to issue this executive order providing for the determination of the ceiling, reestablishing the formula for allocating bonds under the ceiling, setting forth the procedure for obtaining an allocation of bonds subject to such ceiling and a system of record keeping of such allocations.

NOW THEREFORE I, EDWIN W. EDWARDS, 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 order and direct as follows:

ARTICLE I

DEFINITIONS

SECTION 1.1: All terms defined in the preamble hereof shall have the same meanings in this executive order.

SECTION 1.2: All terms not defined herein shall have the same meanings as used in the Act.

SECTION 1.3: In addition, the following terms shall have the following meanings:

issuer or *issuers* means any entity or entities now or hereafter authorized to issue bonds under the Constitution or laws of the state.

statewide jurisdiction means authority to issue bonds to finance projects located anywhere within the geographic limits of the state and not limited to any particular area of the state.

ARTICLE II

DETERMINATION OF CEILINGS
FOR 1992 AND THEREAFTER

SECTION 2.1: The determination made by the staff of the Louisiana State Bond Commission (the "SBC Staff") of the ceiling for certain private activity bonds for the year 1992 pursuant to the provisions of the Act and 88-35; namely, the product of $50 times the most recently published estimate of population for the state released by the United States Bureau of Census before January 1, 1992 is hereby ratified and established as the ceiling for the calendar year 1992.

SECTION 2.2: On or before January 15, 1993 and on or before the 15th day of each subsequent calendar year during the life of this executive order, the SBC Staff is hereby directed to determine the ceiling for each calendar year by multiplying $50 times the most recently published estimate of population for the state released by the United States Bureau of Census before the beginning of each respective calendar year. Upon making such determination of the ceiling, the SBC Staff is hereby further directed to publish as soon as practicable a notice of the amount of such ceiling in *The Advocate.*

ARTICLE III

GENERAL ALLOCATION POOL

SECTION 3.1: There is hereby created a pool to be designated the "General Allocation Pool". The entire ceiling for each calendar year is hereby credited to the General Allocation Pool. Allocation for all types of bonds which require allocations under the Act may be requested and granted from the General Allocation Pool. During each of the calendar years 1992 and thereafter, amounts shall be reserved for allocations from the General Allocation Pool as follows:

Until the earlier of September 15 of each year or the date on which the amount remaining in the General Allocation Pool is reduced below one-third of the ceiling, an amount at least equal to 60 percent of the General Allocation Pool shall be reserved for allocations for bonds issued by the LPFA. There shall also be reserved, until the earlier of September 15 of each year or the date on which the amount remaining in the General Allocation Pool is reduced below one-third of the ceiling, an amount at least equal to 10 percent of the General Allocation Pool for allocations to be granted for bonds issued by issuers, other than the LPFA, having statewide jurisdiction.

ARTICLE IV

APPLICATION PROCEDURE FOR ALLOCATIONS

SECTION 4.1: Except as limited in Article III hereof, all issuers in and of the state may apply for allocations on an equal basis. It is the intent hereof that allocations (other than allocations for qualified mortgage bonds) be granted primarily on a first-come first-serve basis until the ceiling reaches a level at which discretion is necessary to ensure the most favorable economic return to the state or an area within the state.

SECTION 4.2: The allocation of the ceiling from the General Allocation Pool created hereby (other than allocations for qualified mortgage bonds) will be considered on the basis of the chronological order or receipt by the SBC Staff from an issuer of the application set forth in Section 4.3 of this executive order.

SECTION 4.3: An issuer which proposes to issue bonds for a specific project or purpose must make application for an allocation of a portion of the ceiling for the particular project or purpose by submitting an application to the SBC Staff which contains the following information:

(a) the name and address of the issuer of the bonds;

(b) the name and location (by mailing address or other definitive description) of the project or purpose for which an allocation from the ceiling is requested;

(c) in the case of bonds other than qualified student loan bonds or qualified mortgage bonds, the name and mailing address of (i) the initial owner or operator of the project, (ii) an appropriate person from whom information regarding the project can be obtained, and (iii) the person to whom notification of the allocation should be made;

(d) the date of adoption by the issuer of an inducement resolution adopted for the purpose of taking "official action", as required by the Internal Revenue Code of 1986, as amended (the "Code"), if the issue of bonds for which the allocation of the ceiling is requested requires the taking of "official action" under the Code;

(e) the amount of the ceiling which the issuer is requesting be allocated for the project or purpose of the application and a general description of the project or purpose to be financed;

(f) either (i) a bond purchase agreement or other written commitment to purchase the bonds for which an allocation is requested, executed by one or more purchasers, setting forth in detail the principal and interest payment provisions and the security for the bonds, accepted by the issuer or the beneficiary of the bonds, (ii) in the case of a public offering of the bonds for which the allocation from the ceiling is requested, a binding bond purchase or underwriting agreement obligating the underwriter or underwriters to sell or purchase the bonds within 60 days of the receipt of an

allocation hereunder, setting forth in detail the proposed principal and interest payment provisions and the security for the bonds, accepted by the issuer or the beneficiary of the bonds, or (iii) a $7,500 escrow deposit which will be forfeited in the event the bonds for which an allocation is granted are not delivered prior to the expiration of such allocation as provided in Section 4.8 hereof. The $7,500 deposit shall be returned to the party depositing the same without interest upon the substitution of the items described in (i) or (ii) above or delivery of the bonds within the allocation period (including any extension). In the event that such bonds are not delivered within the allocation period, the deposit shall be forfeited and deposited in the State Treasury, unless the failure to deliver such bonds is the result of the State Bond Commission denying approval of such bonds, in which case the deposit shall be returned to the party depositing same, without interest; and

(g) a letter from bond counsel to the effect that the bonds for which an allocation is requested are subject to the ceiling.

SECTION 4.4: Upon receipt of the completed application required by Section 4.3 hereof for allocation (except with respect to allocations for qualified mortgage bonds which are to be allocated by the governor) the SBC Staff shall, within ten days of the receipt thereof, notify the person designated in the application of the allocation from the ceiling to be applied to the project or purpose requested in the issuer's application.

SECTION 4.5: Until November 15 of each year, the maximum amount of allocation that may be granted for any project or purpose (other than for qualified mortgage bonds) shall not exceed $20,000,000. Until November 15 of each year, the maximum amount of allocation that may be granted for qualified mortgage bonds (other than for qualified mortgage bonds issued by the LHFA) shall not exceed $25,000,000. If an issuer submits a request for an allocation in excess of the amount herein authorized, the SBC Staff shall retain the application for consideration of the allocation of additional amounts on or after November 15 of that year. Notwithstanding the foregoing, if the governor determines that a project serves a crucial need or provides an extraordinary benefit to the state of an area within the state, the governor, by written approval, may authorize allocations for a project prior to November 15 up to a total of $50,000,000 for such project or purpose. Allocations for qualified mortgage bonds issued by the LHFA shall not be governed by this Section.

SECTION 4.6: On the earlier of September 15 of each year or the date that the amount remaining in the General Allocation Pool is reduced below one-third of the ceiling, the remaining amounts reserved in Article III shall be combined and allocation from such remaining amount shall be granted at the discretion of the governor without regard to reservations for any particular issuers.

SECTION 4.7: Upon receipt of the completed application required by Section 4.3 hereof for allocations which must be granted by the governor, the SBC Staff shall immediately forward such application to the governor, together with a form used for the granting of allocations which is complete in all respects other than the amount of the allocation. The governor shall determine the amount of allocation (if any) and may evidence his approval by entering the amount of the allocation on the form and signing the allocation form.

SECTION 4.8: Any allocation from the ceiling (other than carryforward allocations described in Section 4.14 hereof) will remain valid if the bonds for which such allocation is granted are delivered by the earlier of (i) 60 days from the date the notice of the allocation is mailed to the person designed or (ii) December 31 of the calendar year granted; unless, in the case of (i) above, the issuer requests an extension of time for the allocation to remain valid, in which event the allocation will be extended one time to the earlier of (i) 30 days from the date of the expiration of the 60 days period or (ii) December 31 of the calendar year granted. Notwithstanding the foregoing, an allocation shall be deemed invalid immediately upon the State Bond Commission's denial of the approval of the bonds which have received an allocation.

SECTION 4.9: On November 15 of each year the SBC Staff shall determine the remaining amount of the ceiling and shall submit to the governor for consideration all applications for allocations of bonds in excess of the amounts permitted herein for which the SBC Staff has received in writing during the period commending October 15 through November 14 of such year a notification of the applicants continued desire to receive an increased allocation. Thereafter, the governor may grant, until the ceiling is exhausted, allocations limited to $20,000,000 per project or purpose (in addition to previous allocations granted) unless the governor determines that a project satisfies a particularly important state or local need, in which event the governor may allocate additional amounts limited only to the amount of the ceiling remaining.

SECTION 4.10: In the event the allocation of the ceiling for a particular project or purpose expires as provided in Section 4.8 of this executive order, the issuer may resubmit its application for an allocation of a portion of the ceiling for such project or purpose, and the application of the issuer relating to such project or purpose will be reviewed in chronological order of receipt of its resubmission, but no preference or priority will be given to the issuer as a result of its prior application for such project or purpose.

SECTION 4.11: In order to make maximum use of the ceiling, to promote economic growth in the state, and to treat all interests fairly, it is the intent of this executive order that the SBC Staff shall not exercise any discretion in the allocation of bonds. The SBC Staff shall handle and dispose of each application in the chronological order of receipt.

SECTION 4.12: The SBC Staff shall maintain accurate records of all allocations and all bonds delivered. All issuers of bonds which have received an allocation must notify the SBC Staff of the delivery of bonds within five days after the delivery of such bonds and shall specify the total principal amount of bonds issued. The SBC Staff shall provide to any person so requesting every two weeks and any other time requested: (i) a list of the amount of unallocated ceiling remaining on the date such request is made, (ii) a list of allocation (naming the issuer and amount of allocation) which have been made by the SBC Staff and the date of each allocation and any extension, (iii) a list of applications being held by the SBC Staff which have requested a larger allocation than permitted and (iv) a list of bonds which have been given an allocation and have been delivered.

SECTION 4.13: If at any time the remaining amount of the ceiling is insufficient to meet the request for allocation of two or more applications which were received in completed form by the SBC Staff on the same day, then the allocation shall be considered based on the chronological order of

adoption of an inducement or other resolution by the respective issuer for the project or purpose for which an allocation is requested, and if the inducement or other resolution of such applications were adopted on the same day, the allocation for those projects induced on the same day shall be made on a pro-rata basis.

SECTION 4.14: If the ceiling exceeds the aggregate amount of bonds issued during any year by all issuers, the governor may allocate such excess to issuers for use as a carryforward for one or more carryforward projects permitted under the Act through the issuance of an executive order for all carryforward projects which have submitted an application containing as many elements described in Section 4.3 hereof as possible to the SBC Staff and a request to be treated as a carryforward project. The SBC Staff shall notify the issuers which are allocation a portion of the ceiling for a carryforward project at least five days prior to the last date an election to carryforward a portion of the ceiling may be made.

SECTION 4.15: This executive order only relates to bonds subject to the private activity bond volume limitation set forth in the Act. No issuer shall apply for or be entitled to an allocation from the ceiling for bonds which are not subject to the private activity bond volume limitation set forth in the Act.

SECTION 4.16: The responsibility of the SBC Staff hereunder shall be exercised by the SBC Staff independent of any of its other duties and responsibilities with respect to the Louisiana State Bond Commission.

SECTION 4.17: The governor may modify, amend, supplement or rescind this executive order to reflect any subsequent federal or state legislation; provided however, that any modification, amendment, supplement or rescission shall not rescind any allocation granted for a project or purpose pursuant to the terms of this executive order if such allocation is required under federal law in order to maintain the tax-exempt status of the bonds issued for such project or purpose.

SECTION 4.18: The governor will supply with each allocation granted a certificate complying with Section 149(e)(2)(F) of the Code.

SECTION 4.19: This executive order shall be effective on the date of execution hereof by the governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge on this 30th day of June, 1992.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 92-48

WHEREAS, there is a need for additional effort to combat the use of illicit drugs and alcohol by the children of Louisiana; and

WHEREAS, Executive Order EWE 92-3 was executed to create the Governor's Advisory Council on Drug Free Schools and Communities; and

WHEREAS, the Governor's Advisory Council on Drug Free Schools and Communities, as created by Executive Order EWE 92-3, could perform its duties and functions in a more efficient and effective manner with the assistance of six additional members;

NOW THEREFORE, I EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the Constitution and laws of the state of Louisiana, do hereby amend and reenact Executive Order EWE 92-3 as follows:

SECTION 1: The Governor's Advisory Council on Drug Free Schools and Communities shall be composed of an additional six at-large members who shall be appointed by and serve at the pleasure of the governor.

SECTION 2: All other orders and directions of Executive Order EWE 92-3 remain in effect.

SECTION 3: 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 Advisory Board on Indian Gaming in implementing the provisions of this executive order.

SECTION 4: The provisions of this executive order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana at the Capitol, in the City of Baton Rouge on this 7th day of July.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 92-49

WHEREAS, the Calcasieu River estuary system in Calcasieu and Cameron Parishes has provided tremendous commercial and recreational opportunities for the citizens of the state and local communities for many years; and

WHEREAS, the estuary system is a historical integral and significant part of the economic base of Calcasieu and Cameron Parishes; and

WHEREAS, the state has issued several advisories for the Calcasieu River and the Prien Lake areas which have closed swimming and have warned against consuming fish taken from those areas; and

WHEREAS, an advisory warning has been issued because tissue samples of fish taken from the river showed detectable levels of the toxic chemicals hexachlorobenzene and hexachlorobutadiene; and

WHEREAS, the pollution of the water bodies in the Calcasieu River estuary by chemical and sewerage discharges has created a need for the creation of a task force to advise and coordinate federal, state, and local governments, as well as citizen and industrial activities in Calcasieu and Cameron Parishes relative to the pollution problems in the Calcasieu River Basin.

NOW, THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the Constitution and laws of the state of Louisiana, do hereby create and es-

tablish the Calcasieu Estuary Environmental Task Force within the Executive Department, Office of the Governor, and do hereby order and direct as follows:

SECTION 1: The Calcasieu Estuary Environmental Task Force is created and established within the Executive Department, Office of the Governor.

SECTION 2: The duties and functions of the Calcasieu Estuary Environmental Task Force include, but are not limited to, acting as liaison between the general public and state agencies regarding the pollution of the Calcasieu River estuary system; holding public hearings and receiving public input regarding public concerns, sources of pollution, and possible solutions; meeting and working with the state agencies regarding the scope and effect of their actions; advising the state agencies concerning the environmental integrity of the system; monitoring the acts of state agencies; advising the general public on the actions of the state agencies; and other duties and functions as directed by the governor.

SECTION 3: The Calcasieu Estuary Environmental Task Force is directed to collect and analyze information on the following issues regarding the Calcasieu River Estuary system:

A. the nature and extent of the health threat from all chlorinated hydrocarbons, especially hexachlorobenzene and hexchlorobutadiene identified in the fish and in the water sediments of the Calcasieu River estuary system;

B. quality and reliability of the analytical standards and data used to evaluate the nature and extent of pollution from these and other pollutants, and the impact upon the state and in particular southwest Louisiana's fishing and tourist industry as a result of pollution in the Calcasieu River estuary system; and

C. the nature and extent of health threat from fecal coliform contamination throughout the Calcasieu River estuary system, the quality and reliability of the analytical data regarding such contamination and the need for additional sampling, the impact of such contamination on the fishing and tourist industry in southwest Louisiana, and the source of such contamination and the recommended steps which should be taken to eliminate and clean up this contamination.

SECTION 4: Any future advisory restricting the use of the Calcasieu River estuary system, including restricting the use by the public of the Calcasieu River estuary system and including restrictions upon recreational or commercial activities issued by any state agency, shall only be issued at a public hearing convened by the Task Force for the express purpose of informing the public of the nature and content of the advisory and the reasons therefore.

SECTION 5: The Calcasieu Estuary Environmental Task Force shall be composed as follows:

A. two representatives of the Cameron Parish Police Jury appointed by the police jury;

B. two representatives of the Calcasieu Parish Police Jury appointed by the police jury;

C. two citizens who are actively involved in environmental issues in the southwest Louisiana area appointed by the governor from two lists of three names submitted to the governor by the Southwest Louisiana Legislative Delegation;

D. two representatives selected from two lists of three names nominated by the plant managers of companies located in the petrochemical manufacturing industry located in Calcasieu Parish;

E. one representative of the Calcasieu Parish Medical Society appointed by the governor from a list of three names submitted by the Calcasieu Parish Medical Society;

F. two representatives of the commercial fishing industry in southwest Louisiana appointed by the governor from two lists of three names submitted to him by the Southwest Louisiana Legislative Delegation;

G. two representatives of the sports fishing industry in southwest Louisiana appointed by the governor from two lists of three names submitted to him by the Southwest Louisiana Legislative Delegation;

H. a representative of the Louisiana Farm Bureau who is a resident of Calcasieu or Cameron Parish and is appointed by the president of the Farm Bureau;

I. a representative of the City of Sulphur appointed by the Sulphur city council;

J. a representative of the City of Westlake appointed by the Westlake city council; and

K. a representative of the City of Lake Charles appointed by the Lake Charles city council.

SECTION 6: The following persons shall be nonvoting advisory members and resource personnel to the Task Force, and shall not be counted for determining the number necessary for a quorum:

A. one member selected from the Southwest Louisiana Legislative Delegation and appointed by the governor;

B. a representative of the Department of Environmental Quality appointed by the secretary;

C. a representative of the Department of Health and Hospitals appointed by the secretary;

D. a representative of the Department of Wildlife and Fisheries appointed by the secretary;

E. a representative of the attorney general's office appointed by the attorney general; and

F. a representative of the United States Environmental Protection Agency appointed by the director of Region VI, Dallas office.

SECTION 7: All members of the Calcasieu Estuary Environmental Task Force shall serve without compensation and shall not receive per diem. Reimbursement may be made for actual expenses incurred, as determined by the commissioner of administration.

SECTION 8: The governor shall appoint the chairman and the vice chairman Task Force. The chairman shall convene the Task Force, appoint committees, and preside over meetings as necessary to accomplish the purposes of the Task Force. A majority of the voting membership shall constitute a quorum.

The Task Force shall adopt rules to insure maximum attendance at meetings, which shall include a requirement that any member of the Task Force will be automatically replaced if a member fails to attend two consecutive meetings of the Task Force without good cause shown.

SECTION 9: The Task Force shall prepare an annual report on its activities and shall furnish said report to the governor not later than April 1. Any report filed shall include both the majority and dissenting opinions of the panel regarding the subject matter discussed.

SECTION 10: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Calcasieu Estuary Environmental Task Force in implementing the provisions of this executive order.

SECTION 11: The provisions of this executive order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 7th day of July, 1992.

Edwin W. Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 92-50

WHEREAS, it is the public policy of the State of Louisiana to support technology transfer and utilization of the science and technology resources of the federal government to promote the adaptation and utilization of technological innovations by state and local governments and by commercial entities to encourage the exchange of scientific and technical personnel between federal laboratories and academia industry and state and local governments, and to improve the economic, environmental, and social well being of the people of Louisiana; and

WHEREAS, the Department of Economic Development is the state agency specifically charged with the responsibility of promoting high technology development, as well as other economic development programs in the state; and

WHEREAS, the National Aeronautical and Space Administration/National Space Technology Laboratory provides certain technology transfer programs and cooperative agreements;

NOW THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the Constitution and laws of the state of Louisiana, in order to preserve and protect the health, safety, and welfare of the people of Louisiana, do hereby order and direct as follows:

SECTION 1: All resources, rights, and responsibilities of any and all technology transfer programs conducted in cooperation with the National Aeronautical and Space Administration/National Space Technology Laboratory are resident in the Department of Economic Development.

SECTION 2: The Secretary of the Department of Economic Development shall enter into a cooperative agreement with the National Aeronautical and Space Administration/National Space Technology Laboratory, and shall develop a mechanism and comprehensive work program for delivery of services for a Louisiana Technology Transfer Center to be located at the National Aeronautical and Space Administration/National Space Technology Laboratory.

SECTION 3: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Department of Economic Development in implementing the provisions of this executive order.

SECTION 4: The provisions of this executive order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 22nd day of July, 1992.

Edwin W. Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 92-51

WHEREAS, Act 886 of 1988 (LSA-R.S. 51:2231 et seq.) created the Louisiana Commission on Human Rights; and

WHEREAS, the purpose and intent of the Louisiana Commission on Human Rights is "to provide for execution within Louisiana of the policies embodied in the Federal Civil Rights Act of 1964, 1968, and 1972 and the Age Discrimination in Employment Act of 1967, as amended; and to assure that Louisiana has appropriate legislation prohibiting discrimination in employment and public accommodations sufficient to justify the deferral of cases by the Federal Equal Opportunity Employment Commission, the secretary of labor, and the Department of Justice under those statutes; to safeguard all individuals within the state from discrimination because of race, creed, color, religion, sex, age, or national origin in connection with employment and in connection with public accommodations; to protect their interests and personal dignity and freedom of humiliation; to make available to the state their full productive capacities in employment; to secure the state against domestic strife and unrest which would menace its democratic institutions; to preserve public safety, health, and general welfare; and to further the interest, rights, and privileges of individuals within the state"; and

WHEREAS, the Louisiana Department of Labor, through the Office of Equal Opportunity and Compliance, presently administers a program whose primary responsibility is to ensure nondiscrimination in programs administered by the department in accordance with Title VI and Title VII of the Federal Civil Rights Act of 1964 as amended, the Age Discrimination in Employment Act of 1967, Rehabilitation Act of 1973, and Title IX-Education Amendments. This responsibility currently extends to federally assisted and state programs administered by the department; and

WHEREAS, in situations where the Department of Labor lacks jurisdiction, a referral system has been established with the Equal Opportunity Commission with the Office of Federal Contract Compliance; and

WHEREAS, LSA-R.S. 36:4(B)(12) places the Louisiana Commission on Human Rights within the Office of the Governor; and

WHEREAS, the structure for fact finding and investigation is already in place in the Department of Labor, and therefore the establishment of the Louisiana Commission on Human rights within the Department of Labor would expedite processing of complaints, prevent duplication of services, and would strengthen the effectiveness of the Commission;

NOW THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the Constitution and laws of the state of Louisiana, do hereby establish the Louisiana Commission of Human Rights within the Depart-

ment of Labor, Office of the Secretary, and do hereby order and direct as follows:

SECTION 1: The Louisiana Commission on Human Rights is established within the Department of Labor, Office of the Secretary.

SECTION 2: The governor shall appoint the members of the Louisiana Commission on Human Rights from a list of names submitted by the secretary. The secretary shall make nominations on a bipartisan basis, and shall include representatives of employers, proprieters, trade unions, religious groups, human rights groups, and the general public. All members of the Louisiana Commission on Human Rights shall be appointed by and serve at the pleasure of the governor.

SECTION 3: The members of the Louisiana Commission on Human Rights shall be reimbursed for actual expenses incurred in the performance of their duties, and shall receive a per diem of $65 per day for attending official meetings of the Commission. The payment of per diem and expenses as authorized in this Section or applicable law may be made only from monies received from federal funds, and no state or local monies shall be used for such payment.

SECTION 4: The duties and functions of the Louisiana Commission on Human Rights include, but is not limited to, the following:

1. to maintain an office in Baton Rouge and such other offices within the state as necessary;

2. to meet and exercise its powers within the state;

3. to appoint an executive director, attorneys, hearings examiners, clerks, and other employees and agents as it may deem necessary, to fix their compensation with the approval of the governor, and to delegate any of its functions and duties to its agents or employees in the interest of efficient management of the appropriations and resources of the agency;

4. to promote the creation of local commissions on human rights, to cooperate with state, local, and other agencies, both public and private, and individuals, and to obtain upon request and utilize the services of all governmental departments and agencies;

5. to enter into cooperative working agreements with local commissions which have enforceable ordinances, orders, or resolutions and professional staff;

6. to cooperate with the United States Equal Employment Opportunity Commission created by Section 705 of the Civil Rights Act of 1964, compiled in 42 U.S.C. 2000e-4, in order to achieve the purpose of that Act, and with other federal and local agencies in order to achieve the purposes of this executive order or applicable law;

7. to accept and disburse gifts and bequests, grants, or other payments, public or private, to help finance its activities;

8. to accept reimbursement pursuant to Section 709(b) of the Civil Rights Act of 1964, compiled in 42 U.S.C. 2000e-8, for services rendered to assist the federal Equal Employment Opportunity Commission;

9. to receive, initiate, investigate, seek to conciliate, hold hearings on, and pass upon complaints alleging violations of applicable law;

10. to require answers to interrogatories, compel the attendance of witnesses, examine witnesses under oath or affirmation in person or by deposition, and require the production of documents relevant to the complaint. The Commission may make rules authorizing or designating any member or individual to exercise these powers in the performance of official duties;

11. to furnish technical assistance requested by person subject to this executive order or applicable law to further the compliance with this executive order or applicable law, or an order issued thereunder;

12. to make studies appropriate to effectuate the purposes and policies of this executive order or applicable law, and make the results thereof available to the public;

13. to render, at least annually, a comprehensive written report to the governor and to the legislature. The report may contain recommendations of the Commission for legislative or other action to effectuate the purposes and policies of this executive order or applicable law;

14. to adopt, promulgate, amend, and rescind rules and regulations to effectuate the purposes and provisions of this executive order or applicable law, including regulations requiring the posting of notices prepared or approved by the Commission;

15. to cooperate with community, professional, civic, and religious organizations, federal agencies, and agencies from other states in the development of public information programs, leadership, and activities in the interest of equal opportunity and treatment of all individuals;

16. to create local or statewide advisory committees that in its judgement will aid in effectuating the purposes of this executive order or applicable law. Members of such committees shall serve without pay, but shall be reimbursed for actual expenses incurred in the performance of their duties. the Commission may make provision for technical and clerical assistance to the committees. The Commission may empower these committees:

a. to study and report on problems of discrimination because of race, creed, color, religion, sex, age, or national origin;

b. to foster, through community effort or otherwise, goodwill among the groups and elements of the population of the state;

c. to make recommendations to the Commission for the development of policies and practices that will aid in carrying out the purposes of this executive order or applicable law; and

17. to perform other duties and functions as requested by the governor.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Louisiana Commission on Human Rights in implementing the provisions of this executive order.

SECTION 6: The provisions of this executive order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 22nd day of July, 1992.

Edwin W. Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 92-52

WHEREAS, the development of the mariculture industry in Louisiana has enhanced scientific technology in the industry; and

WHEREAS, this development has also greatly impacted the people of the state of Louisiana because it has inadvertently denied them access to many public areas of the state; and

WHEREAS, conflicts over public access and use of the waterways has been increasing; and

WHEREAS, questions have arisen as to the authority of landowners to deny public access to various waters of the state; and

WHEREAS, Senate Concurrent Resolution 74 of the 1992 Regular Session attempted to address these issues by requesting a study, but the Resolution did not complete the legislative process; and

WHEREAS, our state would benefit from the efforts of a task force that would consider all relevant issues, list the areas of dispute, address those disputes, and recommend any legislative action which may be possible to settle the conflicts;

NOW THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the Constitution and laws of the state of Louisiana, do hereby establish the Governor's Task Force on Navigability and Public Access within the Executive Department, Office of the Governor, and do hereby order and direct as follows:

SECTION 1: Governor's Task Force on Navigability and Public Access is established and created within the Executive Department, Office of the Governor.

SECTION 2: Governor's Task Force on Navigability and Public Access shall be composed of the following members:

1. the governor or his designee;

2. the attorney general or his designee;

3. the director of State Lands in the Division of Administration, or his designee;

4. the secretary of the Department of Wildlife and Fisheries, or his designee;

5. the secretary of the Department of Natural Resources, or his designee;

6. the commissioner of the Department of Agriculture, or his designee;

7. the chairman of the Natural Resources Committee in the Louisiana Senate, or his designee;

8. the chairman of the Natural Resources Committee in the Louisiana House of Representatives, or his designee;

9. one at-large member representing the environmental community, appointed by the governor from a list of three names submitted by the Coalition to Restore Coastal Louisiana;

10. one at-large member representing sportsfishermen, appointed by the governor from a list of three names submitted jointly by the Gulf Coast Conservation Association and the Louisiana Wildlife Federation;

11. one at-large member representing outdoor recreation interests, appointed by the governor from a list of three names submitted by the Delta Chapter of the Sierra Club;

12. one at-large member representing commercial shrimpers, crabbers, and finfishermen, appointed by the governor from a list of three names submitted jointly by the Terrebonne Fishermen's Organization and the Organization of Louisiana Fishermen;

13. one at-large member representing the crawfishing industry, appointed by the governor from a list of three names submitted jointly by Common Claws and the Louisiana Crawfish Producers Association;

14. one at-large member representing the oyster fishermen, appointed by the governor from a list of three names submitted jointly by Louisiana Oyster Dealers and Growers Association, Plaquemines Oyster Association, and Terrebonne Parish Oyster Leaseholders Association;

15. one at-large member representing landowners, appointed by the governor from a list of three names submitted by the Louisiana Landowner's Association;

16. one at-large member representing Atchafalaya Basin landowners, appointed by the governor from a list of three names submitted by the Atchafalaya Crawfish Conservation Association;

17. one at-large member representing major oil and gas, appointed by the governor from a list of three names submitted by Mid-Continent Oil and Gas Association;

18. one at-large member representing independent oil and gas, appointed by the governor from a list of three names submitted by the Louisiana Association of Independent Producers and Royalty Owners;

19. one at-large member representing district attorneys, appointed by the governor from a list of three names submitted by the Louisiana District Attorney's Association;

20. one at-large member representing outdoor recreation interests, appointed by the governor from a list of three names submitted by the Louisiana Audubon Society Council;

21. one at-large member representing the crawfishing industry in the western portion of the Atchafalaya Basin, appointed by the governor from a list of three names submitted by the Louisiana Crawfish Producers West;

22. one at-large member representing conservation and environmental interests in the Atchafalaya Basin, appointed by the governor from a list of three names submitted by the Acadiana Chapter of the Sierra Club; and

23. one at-large member appointed by the governor.

SECTION 3: The governor shall appoint the chairman and the vice chairman of the Governor's Task Force on Navigability and Public Access. Thirteen members of the Task Force shall constitute a quorum.

SECTION 4: The members of the Governor's Task Force on Navigability and Public Access shall receive no compensation for their services. Reimbursement of actual expenses incurred by the performance of their duties may be made, if approved and authorized by the commissioner of the Division of Administration.

SECTION 5: The duties and functions of the Governor's Task Force on Navigability and Public Access include, but are not limited to:

1. identifying and examining issues of navigability, use of waters, fishermen's rights, private landowner's rights, and public access to privately owned waterbottoms;

2. submitting a report to the governor by February 1, 1993, which shall include a summary of the issues considered, the conclusions reached by the majority, any minority opinions, and the legislative recommendations; and

3. any other duties and functions as requested by the governor.

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 Task Force on Navigability and Public Access 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 hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 22nd day of July, 1992.

Edwin W. Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 92-53

WHEREAS, the Louisiana Procurement Code, comprised of R.S. 39:1551-1771, vests the governor with the authority to prescribe procedures for the procurement of small purchases; and

WHEREAS, R.S. 39:1596 in particular reads:

Small Purchases

"Any procurement not exceeding the amount established by executive order of the governor may be made in accordance with small purchase procedures prescribed by such executive order, except that procurement requirements shall not be artificially divided so as to constitute a small purchase under this Section."

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

Each department, institution, board, commission, budget unit, and any other agency of the executive branch of state government shall observe and be guided by the following specific directives.

Small purchases: Any procurement not exceeding $5,000 shall be made in accordance with the following small purchase procedures, except procurement of those services defined in Section 3(A) and 3(B), which shall be deemed small purchases regardless of price. All purchases that conform to Section 3(B) that exceed an agency's delegated authority must be forwarded to State Central Purchasing for approval.

SECTION 1: Each agency subject to this order, except those exempted under R.S. 39:1572, is authorized to purchase equipment (anything not defined as consumables) where the total cost does not exceed $2,000 or your delegated authority, whichever is lower, or special delegation by the chief procurement officer. All other equipment must be requisitioned through the State Central Purchasing Agency of the Division of Administration. Any exception to this procedure shall require written permission of the chief procurement officer of State Central Purchasing. This in no way eliminates the requirement of purchasing equipment from competitive state contracts as defined in Section 2(B) in areas where those contracts exist.

SECTION 2: Each agency subject to the Louisiana Procurement Code, where the cost exceeds $500, regardless of whether purchases are made by the State Central Purchasing Agency, an agency to which purchasing has been delegated, or agencies exempt from State Central Purchasing Agency shall observe the following rules and regulations on small purchases, and maximum competitive bidding shall be obtained in all cases in accordance with R.S. 39:1655. This executive order in no way affects or changes (1) purchasing authority delegated to an agency by the chief procurement officer, (2) purchases from state contracts, or (3) policy and procedure memoranda.

A. Delegated Purchasing Authority - A dollar amount delegated to an agency by the chief procurement officer.

(1) Purchases up to $500. No competitive bidding is required. No purchase order/release order is necessary.

(2) Purchases over $500 not to exceed $2,000 may be made by telephone or facsimile quotations solicited from at least three bona fide, prospective bidders and purchases made on the basis of the lowest responsive quotation received. Files must be documented listing persons contacted, and the terms and delivery of each bidder solicited any special comments. Written confirmation of price should be obtained from successful bidder.

(3) Purchases over $2,000 but less than $5,000 shall be made by sending out written invitations for bids to at least eight bona fide, qualified bidders. Written invitations for bids shall contain complete specifications, the quantity required, delivery point and other information sufficient for a supplier to make an acceptable bid.

B. State Contracts - If a competitive statewide contract exists and the amount is above the minimum order quantity, procurement from state contract is mandatory, except agencies exempt from State Central Purchasing.

C. Printing - Agencies are hereby delegated $250 purchasing authority to handle all their printing, including custom printing, not covered by a state printing contract or available through the Division of Administration Print Shop.

SECTION 3: Exceptions to minimum competitive requirements.

A. No competitive bidding required.

(1) Parts for repairs to equipment from authorized dealer (not stocking of parts).

(2) Repairs to equipment from authorized dealer.

(3) Repairs to vehicles in the following order:

(a) Utilize fleet management statewide maintenance and repair contract if available, or if not available

(b) Authorized dealer or competitive bid.

(4) Aircraft repairs, inspection and parts should be obtained from a Federal Aviation Administration certified repair station and using Federal Aviation Administration certified mechanics and approved by the head of the agency or his designee.

(5) Vehicle body repairs covered by insurance recovery and in accordance with insurance requirements.

(6) Livestock when purchased at public auction sale.

(7) Purchasing or selling transactions between state budget units and other government agencies.

(8) Publications and copyrighted materials when purchased directly from the publisher; or state library and libraries at colleges and universities when using subscription services.

(9) All public utilities and services provided by local government.

(10) Prosthetic devices and devices for physical restoration, if not covered by state contract.

(11) Educational and related resources (except equipment) and membership in professional organizations.

(12) Purchases for clients of Blind and Vocational Rehabilitation programs which are federally funded at a rate of at least 80 percent, regulated by Title 34 of the Federal Rules and Regulations, Code of Federal Regulations Part 361, 365, 370 and 395 and in accordance with OMB Circular A-102; not covered by competitive contract, not to exceed $5,000.

(13) Materials and supplies for participation in promotional activities which enhances economic development with the approval of the department secretary, if not available on state contract.

(14) Wire, related equipment, time and material charges to accomplish adds, moves,and/or changes to telecommunications systems up to $2,000.

(15) Working class animals trained to perform special tasks; such as but not limited to narcotics detection, bomb detection, arson investigation, rescue technique, etc.

(16) Food, materials and supplies for home economics courses, other teaching and training where purchasing, preparing, and serving is part of the regularly prescribed course.

(B) Telephone or facsimile quotations from at least three bona fide, qualified bidders where feasible.

(1) Farm products which include, but may not be limited to fresh vegetables, milk, eggs, fish, or other perishable foods.

(2) Food, materials, and supplies needed for:

(a) Operation of boats and/or facilities in isolated localities where only limited outlets of such supplies are available.

(b) Juvenile detention homes and rehabilitation facilities/homes where the number of inmates or clients is unstable and unpredictable.

(3) Convention and meeting facilities.

(4) Gasoline and fuel purchases unless covered by a competitive contract. Gasoline and fuel purchases in excess of $5,000, unless covered by a competitive contract, require prior approval of the chief procurement officer.

(5) All equipment for blind operated facilities not covered by competitive state contract.

(6) Feed commodities which includes but not limited to soybean meal, cottonseed meal, oats, etc. for use on prison farms.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 23rd day of July, 1992.

Edwin W. Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 92-54

WHEREAS, Louisiana's oil and gas industry is severely depressed; resulting in the loss of thousands of jobs; and

WHEREAS, failed energy policies of the past have resulted in a lack of demand for natural gas, the cleanest burning, least polluting and most efficient fuel available; and

WHEREAS, the establishment of a Natural Gas Marketing Board, within the Department of Economic Development, will facilitate Louisiana's taking the lead in marketing what is arguably its most valuable natural resource.

NOW THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the Constitution and laws of the state of Louisiana, do hereby create and establish the Natural Gas Marketing Board within the Department of Economic Development, and do hereby order and direct as follows:

SECTION 1: The Natural Gas Marketing Board is hereby created and established within the Department of Economic Development.

SECTION 2: The duties and functions of the Natural Gas Marketing Board include, but are not limited to, promoting new markets for natural gas, such as gas air-conditioning and conversion of fleet vehicles to compressed natural gas or propane; providing incentives for utilities to make natural gas available for business and home use in all parts of the state; providing incentives for consumers of energy to convert, where feasible, to natural gas, and exploring the economic consequences of converting heating and cooling systems of public buildings to natural gas.

SECTION 3: The chairman of the board shall be John P. Laborde, Chief Executive Officer of Tidewater, Inc., and members shall include Kevin Reilly, Secretary of the Department of Economic Development, along with representative(s) of the Department of Natural Resources, Mid-Continent Oil and Gas and others whom the governor or chairman deem appropriate to the goals and responsibilities of the board.

SECTION 4: The board will be located in the Department of Economic Development, although meetings may take place at other locations. The board will secure reasonable funding from the state to employ an administrative assistant and to otherwise effectively conduct its business.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or of any political subdivision thereof, are authorized and directed to cooperate with the Natural Gas Marketing Board in implementing the provisions of this executive order.

SECTION 6: The provisions of this executive order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 24th day of July, 1992.

Edwin W. Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 92-55

WHEREAS, pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order BR 88-35 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 1992 (the "1992 Ceiling"), (ii) the procedure for

obtaining an allocation of bonds under the 1992 Ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS, the Parish of St. James has requested an allocation in the amount of $27,140,000 from the 1992 Ceiling to be used in connection with financing of certain solid waste disposal facilities (the "Project") at the existing Uncle Sam and Faustina plants of Freeport McMoRan Resource Partners, Limited Partnership (the "Partnership"), located in St. James Parish, Louisiana; and

WHEREAS, the governor has determined that the project serves a crucial need and provides a benefit to the State of Louisiana, and the Parish of St. James; 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 EWE 92-47, supercedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, 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 1992 Ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
$27,140,000	Parish of St. James	Freeport McMoRan Resource Partners, Limited Partnership

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 effect through December 1, 1992, provided that such bonds are delivered to the initial purchasers thereof on or about December 1, 1992.

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 EWE 92-47, supercedes 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 hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 24th day of July, 1992.

Edwin W. Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 92-56

WHEREAS, pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order BR 88-35 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 1992 (the "1992 Ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1992 Ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Housing Finance Agency has requested an allocation in the amount of $3,625,000 from the 1992 Ceiling to be used in connection with financing of, acquisition, construction and equipping of a multifamily residential rental project substantially for persons of low and moderate income in Lake Charles, Calcasieu Parish, Louisiana (the "Project"); and

WHEREAS, the governor has determined that the project serves a crucial need and provides a benefit to the State of Louisiana, and the City of Lake Charles; 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 EWE 92-47, supercedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, 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 1992 Ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
$3,625,000	Louisiana Housing Finance Agency	Emerald Pointe Apartments

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 effect through October 1, 1992, provided that such bonds are delivered to the initial purchasers thereof on or about October 1, 1992.

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 EWE 92-47, supercedes 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 hereunto set my hand officially and caused to be affixed the Great Seal of the State

of Louisiana, at the Capitol, in the City of Baton Rouge, on this 24th day of July, 1992.

Edwin W. Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agricultural and Environment Sciences

The commissioner of Agriculture and Forestry is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to his authority under R.S. 3:3203(A) adopts the following rules. This emergency adoption is necessary in order that the department may implement training and certification programs and drift standards concerning commercial aerial pesticide applicators during the 1992 agricultural season.

1. Beginning with the effective date of these rules, commercial aerial pesticide applicators, with the single exception of aerial mosquito pest control applicators, must attend department-approved off-target training courses once each year to maintain their certification as a commercial aerial applicators.

2. Commercial aerial pesticide applicators who apply mixtures containing 1:1-Dimethyl-4, 4'-Bipyridinium (cation) dichloride, Isopropylamine salt of glyphosate, Sulfosate Trimethylsulfonium carboxymethylaminomethylphosphonate, 4-(2, 4-Dichlorophenoxy) butyric acid, and 2, 4-Dichlorophenoxyacetic acid (commonly known as Gramoxone, Roundup, Touchdown, 2, 4-DB and 2, 4-D, respectively) must register with the department once yearly on department approved forms prior to making any applications of these chemicals. Effective January 1, 1993, N-(3, 4-dichlorophenyl) propionamide (commonly known as Propanil) must be registered under the provisions of this Paragraph.

3. Commercial aerial pesticide applicators applying any concentrations of agricultural pesticides shall not apply these chemicals from a height of greater than 18 feet above the target field crops.

4. Commercial aerial pesticide applicators, with the single exception of aerial mosquito pest control applicators, shall adhere to the following standards for fixed wing aircraft, regarding boom configurations, nozzle angles and volume of pesticides per acre:

a. The effective spray boom length shall not exceed 75 percent of the length of the wing (wing tip to wing tip) on which the boom is attached.

b. Except as follows, all spray nozzles shall be oriented to discharge straight back toward the rear of the aircraft. When applying insecticides to cotton, aircraft with a maximum flying speed of less than 120 miles per hour shall have the option to position nozzles at an angle of 45° down from straight back or 45° back from straight down.

c. The spray boom pressure shall not exceed a maximum of 40 pounds per square inch.

d. When disc and core type nozzles are used for herbicide, desiccant or defoliant applications, a number 46 or larger core must be used.

e. Unless further restricted by other regulations or labeling or otherwise authorized in writing by the department prior to application, the chemicals listed in (2) above shall be applied in a minimum of five gallons of total spray mix per acre. All other agricultural pesticides, unless further restricted by other regulations or labeling, shall be applied in a minimum of one gallon of total spray mix per acre.

5. All aerial pesticide applicators are prohibited from making an application of any pesticide while it is raining. This prohibition shall not apply to a drizzle of rain so light as to not cause puddling or run-off of water from the field.

6. Unless further restricted by other regulations or labeling, commercial aerial pesticide applicators, with the single exception of aerial mosquito pest control applicators, are prohibited from making an application of any pesticide within 100 feet from the edge of the swath to any inhabited structure, including but not limited to inhabited dwellings, schools, hospitals, nursing homes and places of business. No aerial applicator, with the single exception of aerial mosquito pest control applicators, shall apply pesticides within 1,000 feet of any school grounds during normal school hours.

The effective date of these rules is July 28, 1992, and they shall remain in effect for 120 days or until these rules take effect through the normal promulgation process, whichever is shortest. These rules shall pre-empt those adopted by this office on or about May 9, 1992.

Bob Odom
Commissioner

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amendment to Bulletin 1191,
School Transportation Handbook

The State Board of Elementary and Secondary Education, at its meeting of July 23, 1992, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved the following standard for the evaluation and determination of economic hardship for the curtailment of bus transportation as stipulated in R.S. 17:158(H) enacted into law during the 1992 Session of the Legislature. This standard require parish or city school boards seeking approval to eliminate or reduce the level of transportation services to students for economically justifiable reasons to submit with those requests certain budgetary information.

This standard is adopted as an emergency rule in or-

der for it to be in effect at the time the schools open this year. Effective date of emergency rule is August 20, 1992.

Amendment to Bulletin 1191,
School Transportation Handbook

Certification of economic hardship will be determined by the State Board of Elementary and Secondary Education and the State Department of Education based upon the criteria listed below:

1. No parish or city school board shall eliminate or reduce transportation services provided to students as required by the provisions of this Section except for economically justifiable reasons approved in accordance with the provisions of this Subsection by the State Board of Elementary and Secondary Education.

2. Any parish or city school board seeking approval to eliminate or reduce the level of transportation services to students for economically justifiable reasons shall submit with its request for approval the following information:

a. Figures for the three most recently completed fiscal years showing the board's actual revenues from all sources, including any prior year surpluses, and actual expenditures for operating purposes. These figures shall include detailed information relative to any revenues received specifically for providing transportation services to students and the actual expenditures of the board for providing transportation services to students.

b. Figures for the current fiscal year and for the next fiscal year showing, according to the most recent estimates, the board's anticipated revenues from all sources, including any prior year surpluses, and anticipated expenditures for operating purposes. These figures shall include detailed information relative to any anticipated revenues to be received specifically for providing transportation services to students and the anticipated expenditures of the board for providing transportation services to students.

c. The estimated cost of both a per pupil basis and on a per bus route basis for the current fiscal year and for the next fiscal year for the board to comply with the student transportation requirements of Paragraph A(1) and Subsection F of this Section.

d. A description of the board's proposed reduction in or elimination of student transportation services indicating the number of students involved, any specific routes proposed for reduction or elimination, and the estimated savings to be achieved through the reduction of elimination of transportation services.

e. A written statement attested to by the chief financial officer of the school system, the local superintendent of schools, and the presiding officer of the school board that sufficient funds are not available or are not expected to be available, regardless of funding source to permit the board to provide the transportation services to students being proposed for reduction or elimination.

f. A written statement attested to by the chief transportation officer of the school system, the local superintendent of schools, and the presiding officer of the school board that the proposed reduction in or elimination of transportation services to students does not have a disparate impact on any group of students by reason of race, creed, sex handicap, residence, or school attended, whether public or approved nonpublic, elementary or secondary.

g. Any additional information deemed necessary by the State Board of Elementary and Secondary Education.

3. The State Board of Elementary and Secondary Education shall take under review and consideration any request by a parish or city school board for approval to reduce or eliminate student transportation services submitted in compliance with the provisions of this Subsection, however no such approval shall be granted by the board until the state superintendent of education has certified the accuracy and validity of the information submitted by the parish or city school board.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY
Board of Elementary and Secondary Education

Interim Changes to Bulletin 1508,
Pupil Appraisal Handbook

The Board of Elementary and Secondary Education, at its meeting of July 23, 1992, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved the following interim changes to Bulletin 1508, Pupil Appraisal Handbook.

This rule was adopted in accordance with the requirements of the Corrective Action Plan relative to the federal compliance monitoring of the state of Louisiana's Special Education Programs and is adopted as an emergency rule in order that funding may be received for this program. Effective date of emergency rule is July 23, 1992.

Traumatic Brain Injury

I. Definition

Traumatic Brain Injury is an insult to the brain, not of a degenerative or congenital nature but caused by an external force, that may produce a diminished or altered state of consciousness, which results in an impairment of cognitive abilities or physical functioning. It can also result in the disturbance of behavioral or emotional functioning. These impairments may be either temporary or permanent and cause partial or total functional disability or psychosocial maladjustment.

II. Eligibility Criteria

To be placed in this category the individual must possess:

A. documented medical evidence of an external insult to the brain which causes an impairment of cognitive, physical, behavioral or emotional functioning; and

B. impaired functioning which significantly affects education.

III. Procedure for Screening

General Screening Procedures shall be followed.

IV. Procedure for Evaluation

A. Medical documentation that there has been an external insult to the brain, which causes an impairment to the cognitive, physical, behavioral or emotional functioning of the individual.

B. A psychological evaluation to determine status of cognitive, behavioral and emotional functioning.

C. A social evaluation to determine the status of social interaction behaviors.

D. An educational evaluation to determine the need for educational and environmental adjustments.

E. A speech/language evaluation to determine if there are speech or language difficulties.

F. Any other assessment procedures deemed necessary by the multidisciplinary team.

V. Reevaluation

The reevaluation of students classified as disabled due to Traumatic Brain Injury shall include all requirements specified under Individual Evaluation Process: Reevaluation Section.

Gifted

I. Definition

Gifted children and youth are those who demonstrate abilities that give evidence of high performance in academic and intellectual aptitude.

II. Procedures for Screening

A. Sensory screening shall be conducted whenever vision or hearing problems are suspected.

B. Each school system shall develop and implement procedures for screening students suspected of being gifted. The screening criteria shall not exceed the criteria for eligibility.

C. At least two regular school staff members such as the principal or designee, teachers, counselors, pupil appraisal personnel, and other professional staff shall conduct a review of the screening information with the student's teacher and determine whether to evaluate or provide modifications for enrichment purposes.

III. Criteria for Eligibility

A. Preschool and Kindergarten: A student at the preschool or kindergarten level must meet criterion 1 or 2.

The student shall:

1. obtain a score at least three standard deviations above the mean (SFL) or (ELP) on an individually administered test of intellectual abilities appropriately standardized on students of this age and administered by a certified school psychologist.

2. obtain a combined score of at least 10 when scores are entered into the cells of the Standard Matrix with at least four points earned on the aptitude/intelligence test.

B. Grades 1-12: Criterion 1, 2, or 3, must be met.

The student shall:

1. obtain a score of at least two standard deviations above the mean (SFL) or (ELP) on an individually or group administered test of intellectual abilities appropriately standardized on students of this age and administered by a certified school psychologist; or

2. obtain a score of at least seven when scores are entered into the cells of the Standard Matrix, at least two points of which are earned on the aptitude/intelligence test; or

3. obtain a score of at least six when scores are entered into the cells of the Standard Matrix, and a recommendation for classification as gifted from the pupil appraisal personnel who conducted the evaluation of the student in accordance with the evaluation procedures.

IV. Procedures for Evaluation

All tests and other procedures used to evaluate children referred for gifted assessments shall be standardized, non-discriminatory, and appropriate for the cultural background of the children being evaluated.

A. Preschool and Kindergarten: The individual evaluation shall include at a minimum:

1. an individual evaluation of intellectual abilities administered by a certified school psychologist using an instrument or instruments appropriately standardized for students of this age;

2. an individual evaluation of reading and math skills using an achievement test standardized at the first grade level;

3. an interview with the student's parents, and teachers of enrolled students.

B. Grades 1 through 12: An individual evaluation shall include at a minimum:

1. an evaluation of intellectual abilities, individually or group administered, by a psychologist using nondiscriminatory assessment procedures;

2. additional evaluations in the areas listed below, individually or group administered, by qualified pupil appraisal personnel. The regular district-wide test scores shall not be used in the Standard Matrix as part of the individual evaluation;

a. Total Reading

b. Total Math

3. an interview with the student's parents;

4. for students who obtain at least six points in the matrix further evaluation shall be conducted by pupil personnel which shall include at a minimum:

a. a review of the student's educational performance and all screening data with the student's teacher(s);

b. observation of the student's behavior during and performance on at least one structured normed or criterion referenced test such as, but not limited to:

(1) Intelligence

(2) Aptitude

(3) Achievement

(4) Problem Solving

(5) Creativity

Note: Few, if any, standardized assessment instruments adequately control for the effect of such factors as environmental impoverishment, cultural differences, or the lack of opportunities to learn. It is imperative that such factors be closely attended to in any individual or group assessment of students suspected of being gifted, and given serious consideration by pupil appraisal and special education personnel when determining whether or not a student is gifted. Any significant discrepancies between formal test results and the student's customary behaviors and daily activities, or any discrepancies among test results, should be examined closely during the evaluation and addressed in the evaluation report.

The recommendation of the multidisciplinary team to either classify or not classify a student as gifted must be based on a thorough evaluation of the student's abilities.

Standard Matrix

Points	**1**	**2**	**3**	**4**
	1.0 - < 1.5 SD	**1.5 - < 2.0 SD**	**2.0 + SD**	**2.5 + SD (Preschool & K)**
Aptitude/Intelligence				
Achievement/Reading				
Achievement/Math				

V. Reevaluation

The mandatory triennial or requested reevaluation of a student classified as gifted shall consist, at a minimum, of a review of the student's IEP and progress in the gifted program conducted by the evaluation coordinator and the student's teacher(s). If, based on this review, it is suspected that

the student is not gifted, the student shall receive an evaluation as specified under the procedures for evaluation in this Section. In such cases, the student must meet the eligibility criteria for continued classification.

G. Reevaluation

1. The required three-year reevaluation of exceptional students shall consist of the following elements unless otherwise specified in the criteria for each exceptionality. The multi-disciplinary team, with the evaluation coordinator is responsible for judging the adequacy of all data, including that provided by the student's teacher, as a valid indicator of the students' current performance. The required triennial reevaluation must be completed on or before the third year anniversary date and must include:

a. a review of vision and hearing screening results in order to verify that a sensory deficit is not currently affecting educational performance;

b. an interview with the classroom teacher(s) which includes a summary of the student's academic progress;

c. a review and analysis of the IEP and the student's progress toward meeting the objectives;

d. a review and analysis of any standardized test scores, including all previous evaluation reports;

e. an observation of the student in the instructional setting and, when appropriate, an interview with the student;

f. contact with the family regarding the student's educational performance;

g. other tests and evaluation procedures deemed necessary or appropriate.

2. Reevaluations conducted for reasons other than the third year mandate described above (e.g. change to a more restrictive placement, concern over the student's progress, etc.) must be specific to the referral questions and would generally include the same components specified in 1.

H. Independent Individual Evaluation

1. A parent has the right to an independent individual evaluation which meets the requirements of Bulletin 1508. This independent individual evaluation shall be public expense (without charge) in any of the following instances:

a. if the parent gives written notice of disagreement with the evaluation provided by the school system, and the school system disagrees with the parent, the school system initiates a hearing within 10 operational days of the written notice, and the hearing officer decides that the parent was correct;

b. if a hearing officer requests an independent evaluation as a part of a hearing;

c. if the parent gives written notice of disagreement with the evaluation provided by the school system and the school system disagrees with the parent but does not request a hearing.

2. Failure of a parent to provide a school district with written notice of a disagreement with the school district's evaluation does not relieve the school district of their responsibility to pay for an independent educational evaluation that meets the other requirements as stated above.

3. Parents have the right to obtain an individual evaluation at their own expense. It is advisable for parents to determine if Bulletin 1508 criteria will be met.

a. The results of a privately obtained independent evaluation:

(1) may be presented as evidence at a hearing under Section 509 of Bulletin 1706;

(2) must be considered but not construed to supersede an individual evaluation obtained by the school system.

b. Parents should be advised that in considering the privately obtained independent evaluation, the school system must:

(1) within 10 operational days of receipt of the privately obtained individual evaluation, conduct a review of the evaluation to determine if it meets all requirements of this Bulletin, and inform parents of the decision reached and the actions to be taken by the school system;

(2) if this review indicates that the evaluation meets all required criteria and the student is exceptional, the system shall comply with Section 440 of Bulletin 1706.

(3) if upon review, it is determined that the evaluation does not meet all requirements for eligibility specified in Bulletin 1508, the parents shall be so informed and have their options explained to them. The parents may choose to have the private evaluator (at the parent's own expense) complete the evaluation according to criteria, or request the school system to complete the evaluation using school system pupil appraisal personnel. If the choice is the latter, formal parental permission shall be obtained, and the evaluation shall be completed in accordance with the timelines established in Section 436 of Bulletin 1706;

(4) weigh the recommendations in the report in accordance with their findings in the review.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Interim Changes to Bulletin 1573,
Complaint Management System

The State Board of Elementary and Secondary Education, at its meeting of July 23, 1992, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved the following interim changes to Bulletin 1573, Complaint Management System.

Section 100. Definitions

100.10. *BESE*—The State Board of Elementary and Secondary Education.

100.20. *Child Advocate(s)*—An individual or group established to promote the interests and rights of children, especially exceptional children.

100.30. *Complainant*—The individual(s) who files a complaint with the Complaint Management System. This may be a parent, child, surrogate parent, child advocate or other individual.

100.40. *Complaint*—An allegation that an education agency has violated a requirement of federal or state laws, regulations, policies, rights, procedural safeguards or program standards adopted by BESE.

100.50. *Office*—The Office of Special Educational Services (OSES) in the State Department of Education.

100.60. *Education Agency*—The state, an LEA, or other subgrantees, involved in the provision of a free appropriate public education (FAPE), at the pre-school, elementary, or secondary school level, for an exceptional child between the ages of three and 21 years of age.

100.70. *Exceptional Child*—A child evaluated in ac-

cordance with state regulations, who is determined to be gifted and talented, emotionally disturbed, educationally handicapped, learning disabled, mentally handicapped, hard of hearing, deaf, deaf-blind, speech impaired, severe language disordered, autistic, visually impaired, multidisabled, orthopedically disabled, hospital/homebound, traumatic brain injured, or otherwise health impaired.

100.80. *Investigatory Hearing*—An informal meeting conducted, if necessary, as a part of a complaint investigation, which involves securing data necessary to resolve the complaint. Participants may include office representatives, LEA personnel, complainants and/or other persons as may be necessary. The office is empowered to conduct such a meeting by R.S. 17:1944 (B)(11). Each party will be given notice prior to the hearing.

100.90. *LEA*—A Local Education Agency. A parish or city school system or Special School District No. 1. For the purpose of this manual each BESE school is considered an LEA.

100.100. *SDE*—The State Department of Education.

Section 200. Purpose and Mandates

200.10. Purpose - The purpose of the Complaint Management System is to meet the mandate of federal and state laws and regulations, which require a mechanism to field, investigate and resolve issues regarding the provision of special education and related services to exceptional children or those children suspected of being exceptional.

200.20. Federal Mandates

200.21. 20 USC 1401 (Public Law 94-142 (612.6). "The State educational agency shall be responsible for assuring that the requirements of this part are carried out and that all educational programs for disabled children within the state, including all such programs administered by any other state or local agency, will be under the general supervision of the persons responsible for educational programs for disabled children in the state educational agency and shall meet education standards of the state educational agency."

200.22. Education Department General Administrative Regulations (EDGAR). (100b.780(a) (1-3). "1) Receiving and resolving any complaint that the state or subgrantee is violating a federal statute or regulations that applies to a program; 2) Reviewing an appeal from a decision of a subgrantee with respect to a complaint; and 3) Conducting an independent on-site investigation of a complaint if the State determines that an on-site investigation is necessary."

200.30. State Mandates

200.31. R.S. 17:1941, et seq. (R.S. 17:1944B [8, 11, and 20]). "The Office of Special Education Services herein established shall have the following powers and duties:

To receive and investigate complaints, to initiate its own investigations, and to conduct hearings with power of subpoena, on behalf of an individual child or group of children, regarding failure to comply with state or federal laws for exceptional children.

To investigate and conduct hearings upon evidence of denial of equal educational opportunities of exceptional children as defined in this Chapter and to take such action as may be necessary to correct the situation.

To investigate and conduct hearings upon evidence regarding failure to comply with state or federal laws, rules and/or regulations and to take such action as may be necessary to correct the situation."

Section 300. Complaint Criteria and Complaint Categories

300.10. Complaint Criteria. An allegation must meet the following criteria to be considered a complaint.

A. The allegation must arise from a violation of one or more federal or state laws, regulations, policies, rights, procedural safeguards or program standards adopted by BESE and administered by the SEA to assure a FAPE to exceptional or suspected exceptional children.

B. The allegation must be related to the provision of special educational and related services to exceptional or suspected exceptional children.

C. The allegation must require investigation and follow-up by the SDE to achieve resolution. This does not preclude attempts to resolve issues at the LEA level through conciliation.

300.20. Complaint Categories - Categories in which complaints may be filed.

A. right to education;
B. evaluation;
C. Indivualized Education Program (IEP);
D. procedural safeguards;
E. comparability of services;
F. confidentiality;
G. personnel;
H. program administration;
I. placement;
J. private school placement;
K. discipline;
L. transportation;
M. individual transition plan;
N. extended school year services.

Section 400. Filing and Treatment of Complaints

400.10. Filing of Complaints. Complaints may be filed by parents, children, parent/children representatives or other parties who recognize an issue mentioned previously in 300.20. Complaints may be filed in writing, telephone calls or visits to the State Department of Education.

400.20. Treatment of Complaints

A. To effect resolution, formal complaints may require on-site visitation, when deemed necessary by the nature of the complaint. The filing of a formal complaint does not preclude resolving the complaint by telephone call(s) or other informal means. The filing of a complaint does not preclude resolving the complaint by telephone call(s) or other informal means. All complaints shall be resolved within 30 days.

B. Complaints sent to the SDE which do not meet the criteria listed in 300.10 above will be referred back to the complainants with recommendations for appropriate action to be taken.

Section 500. Confidentiality, Non-Intimidation, Coercion and Privacy Rights

500.10. Confidentiality of Complainants. In accordance with the Exceptional Children's Act, a complainant has the right to remain anonymous during the course of the investigation and resolution of a complaint unless it becomes necessary to reveal a name(s).

"Confidentiality of complainants. The identity of complainants must be kept confidential except to the extent necessary to carry out the purposes of this part including the conduct of any investigation, hearing or judicial proceeding."

If a complainant chooses to waive this right, it must be done in writing.

500.20. Non-Intimidation or Coercion. In accordance with the Exceptional Children's Act there is a prohibition to intimidation or coercion by any agency.

"No school board, approved nonpublic school program, Special School District Number 1 or other agency to which this Regulation is applicable shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege protected by this Regulation, the Act or any federal statute or regulations relating to the education or civil rights of exceptional children, or because the individual has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing conducted pursuant to this Regulation."

500.30. Privacy Rights. In order to assure the privacy rights of exceptional children, parent or child representatives filing complaints involving specific exceptional children must submit the written permission of the person(s) for whom the complaint is being filed. Only after such permission is received will a complaint investigation begin.

Section 600. Complaint Intake and Investigation Procedures

600.10. Complaint Intake Procedures. When it is determined that a complaint according to Section 300.10 has been filed, these steps will be followed:

A. The complaint will be recorded in the SDE Complaint Log (SCL).

B. A Complaint Record Form (CRF) will be completed. Contacts with complainant will be made as the investigation proceeds and will be recorded on the complaint record form.

C. The complainant will be sent a letter within five calendar days of intake, indicating receipt of the complaint, stating the contact person handling the complaint and the intent to investigate and report findings within 30 calendar days.

D. The local education agency will be sent a letter within five calendar days of intake indicating receipt of the complaint and stating the contact person handling the complaint and the timeline by which the LEA must respond to the complaint. The response from the local education agency should include either documentation to prove that the alleged violation did not take place or a plan of action to correct the violation.

600.20. Investigation Procedures. Investigations may include written communication, telephone call(s) and/or on-site visits.

A. On-site Investigation - If it is determined an on-site investigation is necessary, an on-site investigation will be scheduled and conducted with technical assistance provided as necessary. Notice will be provided to the school system prior to the on-site investigation.

B. Investigatory hearing - An investigatory hearing may be called, as necessary, during the course of the investigation. This hearing may involve the complaint investigator, education agency, complainants and a representative of their choice, and any other parties deemed necessary to achieve information and/or provide technical assistance leading to the resolution of a complaint. If a hearing is determined necessary, notice will be provided to all parties.

C. Investigation report - Within 10 calendar days after an on-site investigation is made or resolution of a complaint, a written report of the investigation will be drafted and a report of findings and proposed resolution will be mailed to the complainant and school system.

D. Compliance decisions - Within 30 calendar days of notice of compliance decision rendered by the Office of Special Educational Services the decision may be appealed by either the complainant or local education agency to the BESE. The BESE decision may be appealed to the United States Secretary of Education.

E. Extension of timelines - Timelines indicated in this Section may be extended if the complexity of the complaint warrants such an extension. The complainant and the education agency will be notified, in writing, of the need for extension.

Section 700. Enforcement Procedures and Appeals of Enforcement Procedures

700.10. Enforcement Procedures. In order to effect compliance by an education agency, the SDE may initiate enforcement proceedings.

A. Sixty calendar days after the filing of a complaint and the subsequent failure to resolve the issues of the complaint and effect compliance, the assistant superintendent of the Office of Special Educational Services may, barring an appeal by the effected agency(s) recommend to the state superintendent that a petition to withhold funds be made to BESE. The assistant superintendent may also opt to make his recommendation after any negative ruling during the appellate process and a failure to make immediate corrective action(s) or a subsequent failure to exercise further appeal rights.

B. Other appropriate enforcement action may be taken.

700.20. Appeals of Enforcement Procedures. In order to appeal an enforcement decision, a complainant may request a hearing conducted by BESE in accordance with paragraph 100.401 of the Education Department General Administrative Regulations (EDGAR).

This rule was adopted in accordance with the requirements of the Corrective Action Plan relative to the federal compliance monitoring of the State of Louisiana's Special Education Programs and is adopted as an emergency rule in order that funding may be received for this program. Effective date of emergency rule is August 20, 1992.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Interim Changes to Bulletin 1706

The Board of Elementary and Secondary Education, as its meeting of July 23, 1992, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved the Interim Changes to Bulletin 1706, Regulations for the Implementation of the Exceptional Children's Act.

Emergency adoption is necessary in order that funding may be received for this program. This rule was adopted in accordance with the requirements of the Corrective Action Plan relative to the federal compliance monitoring of the state of Louisiana's Special Education programs. Effective date of this emergency rule is August 20, 1992.

Regulation for Implementation
of the Exceptional Children's Act

§**448.**

B.

Comment:

Instruction may take place in other settings.

§**931.** Generic class is an instructional setting (self-contained resource) in which —

1. In accordance with the degree of impairment, exceptional children may be placed as follows:

a. mild/moderate class consisting of mildly to moderately impaired who are mentally disabled, autistic, learning disabled, behaviorally disordered (excluding students whose impairment is emotionally disturbed), orthopedically impaired, other health impaired, traumatic brain injured, or educationally handicapped/slow learner;

b. severe/profound class consisting of moderately, severely to profoundly impaired who are mentally disabled, autistic, multidisabled, deaf/blind, or traumatic brain injured.

§**970.** Related services means transportation and such developmental, corrective, and other supportive services as are required to assist an exceptional child to benefit from special education. Related services include speech hearing/language services and audiological services, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, interpreter services, orientation and mobility training, and medical services for diagnostic or evaluative purposes. The term also includes school health services, social work services, and parental counseling and training.

§**990.** Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

§**991.** Assistive technology service means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes:

(A) the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the individual's customary environment;

(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

§**992.** Free appropriate public education means special education and related services that:

(A) have been provided at public expense, under public supervision and direction, and without charge;

(B) meet the standards of the state educational agency:

(C) include an appropriate preschool, elementary, or secondary school education in the state involved; and

(D) are provided in conformity with the individualized education program.

§**993.** Individualized education program means a written statement for each child with an exceptionality developed in any meeting by a representative of the local educational agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with exceptionalities, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall include:

(A) a statement of the present levels of educational performance of such child;

(B) a statement of annual goals, including short-term instructional objectives;

(C) a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs;

(D) a statement of the needed transition services for students with disabilities beginning no later than age 16 and annually thereafter (and, when determined appropriate for the individual, beginning at age 14 or younger), including, when appropriate, a statement of the interagency responsibilities or linkages (or both) before the student leaves the school setting;

(E) the projected date for initiation and anticipated duration of such services; and

(F) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.

In the case where a participating agency, other than the educational agency, fails to provide agreed upon services, the educational agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives.

§**994.** Transition services means a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

§**995.** Traumatic brain injury is an insult to the brain, not of a degenerative or congenital nature but caused by an external force, that may produce a diminished or altered state of consciousness, which results in an impairment of cognitive abilities or physical functioning. It can also result in the disturbance of behavioral or emotional functioning. These impairments may be either temporary or permanent and cause partial or total functional disability or psychosocial maladjustment.

§**996-999.** Reserved

Part A. State Equalization Fund Minimum Foundation Program Rules for Inclusion of Special Education

2. Allowable cost of Special Education Personnel

a.

(1) The salary of a certified special education teacher, speech therapist, or teacher aide who is engaged exclusively in the teaching of exceptional children in eligible membership (as defined in subpart 3 of this Part) consistent with the bona fide multiple enrollment requirements of subpart 4 of this Part or in a program approved by the State Board of Elementary and Secondary Education.

b. Reserved.

5. Use of Special Education Personnel.

a. The certified special education teacher, speech therapist, and teacher's aide whose salaries are included in the allowable costs under subpart 2 of this Part shall be used to provide services only to those exceptional children needing special education and related services for whose benefit the state allotment was made or in a program approved by the State Board of Elementary and Secondary Education.

Part B. Pupil/Teacher, Pupil/Speech Therapist, and Teacher/Teacher Aide Allotments and Ratios Under the State Equalization Fund Minimum Foundation Program for Public Education

I. Numbers of pupils enrolled in an eligible membership which justify the inclusion of the salary of a teacher providing instructional services.

A. Self-contained classroom

	** Para Units	* Pre-School	Elem.	Sec.
21. Traumatic Brain Injured	**	4-7	4-9	4-9

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1903, Regulations for the Implementation of R.S. 17:7(11) - Dyslexia Law

The Board of Elementary and Secondary Education, at its meeting of June 25, 1992, exercised those powers conferred by the Administrative Procedure Act R.S. 49:953(B) and approved readvertisement of Bulletin 1903, Regulations for Implementation of the Louisiana Dyslexia Law as an emergency rule.

A new emergency adoption and readvertisement is necessary because of changes made in the law during this past legislative session. The changes to the regulations for the law were approved by BESE at its June 25, 1992 meeting. These changes whih appear on page 11 of the bulletin (Step Four. Multi-sensory Regular Education Programming), add clarifying language to the description of programs for dyslexic students. The bulletin, with changes, is being readvertised in order for the public to be appropriately informed. Effective date of this emergency rule is August 23, 1992.

The Five-step Process for Evaluation and Program Eligibility

60 Operational-day Time Line

2.1

Step One. Data Gathering, Screening and Review

I. Request for Assistance by the School Building Level Committee

A request may be made to the school building level committee (SBLC) for review of a student's educational progress if school personnel (principal, guidance counselor, teacher, school nurse), a parent/guardian, community agency personnel, or a student has reason to believe that the student is not making expected progress because of a suspected language processing disorder. The SBLC membership may be modified in order that a group of knowledgeable persons may address an individual student's needs.

II. Formation of a Group of Knowledgeable Persons

A. Each campus must establish a group of knowledgeable persons, as per requirements of section 504 of the Rehabilitation Act of 1973, to conduct the following assessment and referral activities. The group shall be referred to as the committee.

B. The committee of knowledgeable persons must be composed of at least three members:

1. the child's teacher; and,

2. two other professional persons who are knowledgeable about the child and/or the suspected condition in the individual school setting.

a. school psychologist
b. assessment teacher
c. occupational therapist
d. reading specialist
e. guidance counselor
f. language/speech therapist
g. curriculum specialist in language arts
h. master degreed teachers in reading, language arts, special education, elementary education

3. The parent or guardian, and student shall be included when possible.

4. The committee chairman may request the assistance of pupil appraisal team members when deemed necessary.

III. Data Gathering and Review

A. Upon request, the first action by the committee shall be to gather data about the student and to establish a profile of the total child from the standpoint of school and home.

B. Data gathered shall include but not be limited to the following:

1. health information:
a. vision and hearing screening
b. medical history

2. academic, cognitive, and behavioral information:
a. Cumulative record review
b. Academic progress reports
c. Teacher reports of aptitude, behavior, and concerns
d. LEAP and/or any other standardized test scores
e. Results of basal reading series assessment
f. Informal testing such as curriculum-based measures
g. Types of interventions used in the regular program
h. Samples of a student's work
i. Achievement motivation information
j. Language processing information

3. speech and language information, if indicated

4. additional information from the parents and other sources.

C. The committee shall review and recommend actions which are needed to ensure improved academic performance.

IV. Actions of the Committee

The actions of the committee in order of occurrence are:

Step Two	Strategies within the Regular/Compensatory Education Program,
Step Three	Assessment of Students At-Risk for Dyslexia and Related Disorders,
Step Four	Multi-sensory Regular Education Programming,
or	
Step Five	Individual Evaluation to Determine Eligibility for Special Educational Services.

Step Two. Specialized Instructional Interventions and Strategies within the Regular/Compensatory Education Program

I. Committee Documentation

The committee shall document the use of specialized instructional intervention and strategies previously used with the student.

II. Instructional Interventions and Strategies

A. Additional specialized instructional interventions and strategies may be recommended by the committee for the student.

B. If specialized instructional interventions and strategies have not been tried and documented, the committee shall recommend specialized instructional interventions and strategies to be implemented in the regular/compensatory education setting.

C. Intervention results shall be recorded and reported to the committee.

1. If the specialized instructional interventions and strategies were successful these efforts will be continued, as needed, and documentation shall remain in the student's cumulative records. The evaluation process for dyslexia may be terminated at this point if the committee, including the parent, is in agreement.

2. If a student has not made the expected progress after implementation the committee recommendations for interventions and strategies, the student shall be assessed for dyslexia or related disorders (Step Three).

3. If a student is suspected of having a handicapping condition under IDEA, the student shall be referred to Individual Evaluation to Determine Eligibility for Special Educational Services (Step Five).

Step Three. Assessing Students At-Risk for Dyslexia and Related Disorders

I. Time Lines for Assessment and Program Eligibility

The total evaluation and program eligibility must be completed within a 60-day operational day time frame, including data gathering, screening and review (Step One), specialized instructional intervention (Step Two), and comprehensive assessment, as warranted (Step Three).

II. The Assessment Plan

An assessment plan shall be developed by the chairman of the committee. The chairman shall assign assessment activities to personnel who are qualified to conduct these activities. Documentation shall be kept on the assessment plan and subsequent activities.

At this time, the parent should be contacted and informed about the assessment plan. Permission for testing is not required under Section 504, but all rights of the parents under Section 504 must be explained.

The assessment must include information from a variety of sources including physical, aptitude and achievement measures.

III. Assessment shall be conducted:

A. following committee recommendation and parental notification; or

B. upon the receipt of a request by a parent or guardian, provided that Steps One and Two have been completed.

IV. Assessment shall be conducted in accordance with the following guidelines [34 CFR 104.35 (b) 1-3]:

A. The assessment procedures shall be conducted by appropriately trained Local Education Agency (LEA) personnel as delineated by the assessment plan.

B. The assessment shall include multi-source data and shall be conducted using valid and reliable instruments. Tests and other evaluation materials must have been validated for the specific purpose for which they are used and must be administered in conformance with the instructions provided by their producer.

C. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single intelligence quotient.

D. Tests are selected and administered to ensure that the results accurately reflect the student's aptitude or achievement level rather than reflecting the student's impaired skills (except where those skills are the factors the test purports to measure). Careful attention must be given to test selection and administration for students with impaired sensory, manual, or speaking skills.

E. A written report of findings, signed by the assessment team, shall be given to the parents and a copy maintained in the student's cumulative folder.

F. A referral to special educational services is required if during the assessment process other handicapping conditions under IDEA are suspected.

V. Required Components of the Assessment Procedure

The assessment shall include the following:

A. a review of data gathered in Step One regarding hearing and vision screening results

B. a review/assessment of cognitive ability

C. assessment of communication skills

1. receptive language

a. listening

b. reading (non-word reading, word attack skills, and timed test of reading)

2. expressive language

a. oral expression

b. written expression

D. assessment of mathematics skills

1. computation

2. word problems

E. behavioral characteristics

1. attention span

2. self-esteem

3. metacognition

4. social skills

F. family interview

VI. Interpreting the Data

A. The following questions shall be addressed by the

committee of knowledgeable persons and any support personnel that have assisted in the assessment.

1. Is there a discrepancy between achievement in the written language areas (reading, spelling, handwriting) and other content areas?

2. If there is difficulty in content areas, is it because of difficulty in reading, spelling, and handwriting tasks?

3. Does the student seem capable of learning in areas not dependent on reading, spelling, or handwriting skills?

4. Does the lack of academic progress seem to be inconsistent with student's observed and demonstrated abilities in other areas, such as mechanical aptitude, creativity, participating in class activities not dependent on reading or spelling proficiency?

5. Does the student have adequate intelligence?

6. Is there difficulty in oral expression?

7. Is the child losing ground on achievement tests?

B. A referral to Special Educational Services is required during the assessment process if other handicapping conditions under IDEA are suspected.

VII. Eligibility Criteria for Dyslexia Programming

A student shall meet criteria A-E, inclusive, as listed below in order to be classified as dyslexic and eligible for dyslexia programming. If a student exhibits characteristics associated with dyslexia and related disorder, the student shall be eligible for Step Four - Multi-sensory Regular Education Programming.

A. A student has adequate intelligence demonstrated through performance in the classroom appropriate for the student's age, or on standardized measures of cognitive ability.

B. A student at-risk for dyslexia must exhibit some of the following characteristics associated with dyslexia, as determined through the assessment procedures. Consideration must be given to age level of students in weighing the following characteristics. Several primary characteristics are indicated by an asterisk (*).

* 1. problems in learning the names of the letters of the alphabet

* 2. difficulty in learning to write the alphabet correctly in sequence

3. difficulty in learning and remembering printed words

4. reversal of letters or sequences of letters

* 5. difficulty in learning to read

* 6. difficulty in reading comprehension

* 7. cramped or illegible handwriting

* 8. repeated erratic spelling errors

9. losing ground on achievement or intelligence tests

* 10. delay in spoken language

11. difficulty in finding the "right" word when speaking

12. late in establishing preferred hand for writing

13. late in learning right and left and other directionality components such as up-down, front-behind, over-under, east-west, and others

* 14. problems in learning the concept of time and temporal sequencing, i.e., yesterday, tomorrow, days of the week and months of the year

15. family history of similar problems

16. late in learning to talk

17. delay in motor milestones

18. slow reading speed

19. error proneness in reading

20. difficulty in foreign language for older students

21. word substitution in oral reading.

C. The student demonstrates a discrepancy between achievement in the language areas (e.g., reading, spelling, handwriting) and other cognitive ability.

D. A student's educational exposure has been in a formal instructional setting for at least one academic year, the student has attended first grade, and the student must be seven years of age.

E. A student is identified as eligible for a dyslexia program if, as a result of this disability, a major life activity is substantially limited.

Step Four. Multi-sensory Regular Education Program

I. Program Determination

A. A student should be maintained within the regular education program with recommended modifications.

1. Options for programming may include the following:

a. regular class placement with curriculum modifications and specialized strategies;

b. in- or out-of-class placement in a multi-sensory program;

c. specialized individual or small group tutoring; and

d. a combination of these options or any additional arrangements that may be developed by the team and approved by the LEA.

2. If a parent or guardian or school system does not agree with the provision of services, either party may pursue the resolution of this issue through the appropriate due process procedure as described in the system's Pupil Progression Plan.

II. Program Description

A. The multi-sensory regular education program(s) shall be one(s) in which the major instructional strategies are language-based, intensive phonetic, synthetic to analytic phonics, linguistic, systematic, sequential, cumulative, individualized, meaning-based, and multi-sensory in approach.

1. *Individualized* — the personalization of instruction to student ability levels, interests, and learning styles.

2. *Multi-sensory* — combined use of visual, auditory, kinesthetic, and tactile senses to reinforce learning.

3. *Systematic, sequential, cumulative* — an orderly fashion of teaching a student to read, write, and spell by building on what the student already knows.

4. *Language-based* — the relating of all aspects of language into meaningful settings.

5. *Intensive phonics*— a combination of analytic phonics and synthetic phonics. Analytic phonics uses prior knowledge of letters and their corresponding sounds to form new words. Synthetic phonics teaches students the sounds of letters first and then combines or blends these sounds to create words.

6. *Linguistics*— the study of language.

III. Teacher Training

Teachers of particular multi-sensory regular education programming shall be appropriately trained according to the criteria of an adopted program, and such assurance shall be provided by the LEA.

IV. Evaluation Data and Review of Student Progress

Evaluation data shall be maintained on students enrolled in multi-sensory regular education programming.

A periodic review shall be made to determine the appropriateness of the program for the individual student. At a minimum, an annual review is required. However, a review may be conducted at any time the student does not appear to be making adequate progress.

Reevaluation shall be conducted at a minimum every three years.

Step Five. Referral for Individual Evaluation to Determine Eligibility for Special Education

An individual evaluation will be conducted in accordance with Bulletin 1508, Pupil Appraisal Handbook, to determine whether or not a student is exceptional and the nature and extent of needed special education and related services.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Student Financial Assistance Commission
Office of Student Financial Assistance

Employment Opportunity Loan Program

The Student Financial Assistance Commission, Office of Student Financial Assistance, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt rules in implementation of the Louisiana Employment Opportunity (LEO) Loan Program. The adopted rules shall regulate the program and comprise the Louisiana Employment Opportunity Loan Program Policy and Procedure Manual. This emergency rule will remain in effect for 120 days.

LOUISIANA EMPLOYMENT OPPORTUNITY (LEO) LOAN PROGRAM

Policy and Procedures Manual

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A copy of the manual can be obtained from the Office of the State Register, 1051 Riverside North, Room 512, Baton Rouge, LA 70802 or it can be viewed from 7:45 a.m. to 4:30 p.m.. Monday through Friday at the Office of Student Financial Assistance, 1885 Wooddale Boulevard, Baton Rouge, LA 70806.

Jack L. Guinn
Executive Director

DECLARATION OF EMERGENCY

Student Financial Assistance Commission
Office of Student Financial Assistance

Louisiana Honors Scholarship

Effective July 14, 1992, the Student Financial Assistance Commission, Office of Student Financial Assistance, exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and adopted rules to implement the Louisiana Honors Scholarship Program. The current Section VII of the Scholarship/Grant Policy and Procedure Manual will be redesignated Section VIII. A new Section VII will be inserted incorporating the following rules to implement the Louisiana Honors Scholarship:

VII. Louisiana Honors Scholarship Program

A. Program Description, History and Purpose

The Louisiana Honors Scholarship Program, first awarded in the fall of 1992, provides tuition exemption to Louisiana residents to acknowledge, honor and reward the academic achievement of Louisiana's top high school graduates, to insure that these students have the financial resources to pursue a higher education in one of Louisiana's colleges and universities and to provide an incentive to these students to seek their higher education in this state.

B. Legislative Authority

Chapter 20-B-3 of Title 17 of the Louisiana Revised Statutes of 1950 comprised of R.S. 17:3042:31 through 3042:35, enacted by Act 1085 and amended by Act 13 of the 1992 Regular Legislative Session.

C. Student Participation/Responsibilities

1. Initial Eligibility. To establish initial eligibility, the student must meet all of the following criteria:

a. graduate in the top five percent of the academic year's graduating class from a Louisiana public or state (BESE) approved nonpublic high school, as identified and certified by the city and parish school board for public high schools and by the principal or headmaster of each nonpublic approved high school; or be enrolled in a state-approved home study program and score in the upper five percent in the state on the National Merit Examination.

b. be a Louisiana resident, as defined in Section VIII.A of this manual;

c. enroll as a full-time undergraduate student in a public or regionally accredited LAICU member independent col-

lege or university in the state.

d. not be eligible for other gratuitous financial assistance or support from the college or university attended or from any alumni organization or foundation organized by the alumni or other supportive individual of the college or university attended whose charter specifically provides that the purpose of the foundation is to aid said college or university in a philanthropic manner if the total cost of the student's tuition is provided by the scholarship.

2. Award Notification/Acceptance

a. respond in writing, as requested, by the deadlines specified;

b. receive the award certificate and the tuition exemption form at the high school ceremony or reception;

c. present the tuition exemption form to the college at the time of registration.

3. Renewal Eligibility. Continuing eligibility is contingent upon the recipient meeting the following requirements:

a. continue to attend a Louisiana public or independent college or university as a full-time student;

b. maintain by the end of each academic year a cumulative college grade point average of at least a 3.0 on a 4.0 scale;

c. continue to register, maintain and successfully complete not less than 12 hours per semester, nine hours per quarter or six hours per summer session;

d. have previously received tuition waivers for less than 10 semesters (or 15 quarters), including summer sessions and less than seven years have elapsed since the month following the date of high school graduation.

D. High School, School Board and Louisiana Department of Education Participation/Responsibilities

1. School Board, Private High School Headmasters and Louisiana Department of Education Representatives.

a. Each city and parish school board and private high school principal or headmaster shall apply the following guidelines in complying with R.S. 17:3042.33A:

i. consider only the academic grades recorded on the student's official high school transcript in determining class ranking;

ii. the academic courses which are to be considered in determining academic class ranking shall be defined as part of the written criteria to be adopted by the board or headmaster.

iii. non-academic courses or other subjective criteria shall not be used in computing academic class ranking for the purposes of this Chapter.

iv. define the procedure by which students who would otherwise have equal academic class ranking may be ranked (tie-breaker procedure). This may include an evaluation of the students' academic grades on a set of pre-determined core academic courses such as English, math and science or an evaluation of the level of difficulty of the courses taken by the students, such as honors courses and higher level math or science courses.

v. by an affirmative act taken during a public meeting, approve written criteria for determining the academic class ranking of students and the procedure by which the top five percent shall be identified. Such written criteria shall incorporate each of the requirements defined in this Paragraph.

b. In computing the top five percent of each high school's graduating class, apply the following formula:

The total number of students receiving a state high school diploma from the institution during the academic year (includes summer and mid-year graduates) multiplied by the figure .05, and rounded up to the next whole number.

EXAMPLE: For a high school that awarded state high school diplomas to two summer graduates seven mid-year graduates and 79 spring graduates during the academic year considered, the following computation would apply.

[2 + 7 + 79 = 88 × .05 = 4.4 round up to 5.0]

Accordingly, five students may be selected for the Honors Scholarship at the high school depicted in the example.

c. Ensure that the approved selection criteria is publicly posted in each high school under the board or headmaster's jurisdiction and provide a copy of the criteria to OSFA.

d. Ensure that amendments to the criteria, as approved by the board/headmaster from time to time, shall only be effective for the years following the year in which amended.

e. Each year, by the deadline specified and on the forms provided by OSFA, city and parish school boards for public high schools, principals or headmasters of nonpublic BESE approved high schools, and Louisiana Department of Education representatives for home study students, certify and submit to OSFA the names of students graduating in the top five percent of each high school's academic year graduating class or the names of those students completing an approved home study program who scored in the upper five percent in the state on the National Merit Exam.

2. Public and Private High Schools and Louisiana Department of Education Representatives:

a. receive the notification of selected students and the award certificates produced by OSFA;

b. recognize recipients at an award ceremony or school reception provided by R.S. 17:177;

c. invite members of the legislature representing the school's district to attend the ceremony or reception, endorse the certificates and make the presentation awarding such.

E. College/University Participation/Responsibilities. Colleges and universities eligible to participate in the Louisiana Honors Scholarship Program are Louisiana public and independent (regionally accredited member institutions of LAICU) colleges and universities. Participating institutions shall:

1. receive OSFA notification of student's eligibility determination;

2. respond to OSFA communications as requested, including but not limited to, the following:

a. certify full-time enrollment status each semester or quarter;

b. supply certification of continuing eligibility, including the following, to be supplied at the completion of each academic year (ending after each spring semester/quarter):

i. total number of hours earned during the specific academic year (including summer sessions);

ii. cumulative hours earned (including prior academic years and summer sessions);

iii. cumulative GPA, including all grade credits earned to date;

iv. actual date of graduation.

c. notify OSFA immediately if applicant fails to enroll or withdraws from school or drops to less than full-time attendance;

d. notify OSFA of any irregularities discovered by the

institution which may affect student eligibility status;

e. maintain adequate records to verify compliance with LASFAC rules.

3. follow LASFAC billing procedures, as follows:

a. institutions may bill LASFAC only for students certified eligible by OSFA.

b. institutions will bill LASFAC, based on their certification of new students' first time, full-time enrollment and renewal students' full-time enrollment as of the fourteenth class day (ninth class day for Louisiana Tech). Institutions are not to bill for students who are enrolled less than full-time on the fourteenth class day, nor for renewal students who did not maintain full-time attendance, as defined in this Section, for the immediately preceding term for which they were enrolled. Students failing to meet the full-time enrollment criteria are responsible for reimbursing the institutions for any monies owed. Refunds for less than full-time enrollment after the fourteenth class day are to be retained by the institution.

c. institutions will not bill LASFAC for any awardee who has elected to accept another form of tuition waiver.

d. if the total cost of the student's tuition is provided by the Honors Scholarship, the student shall not be eligible for nor shall an institution award any other gratuitous financial assistance or support from the college or university attended or from any alumni organization or from a foundation organized by the alumni or other supportive individuals of the college or university attended whose charter specifically provides that the purpose of the foundation is to aid said college or university in a philanthropic manner.

e. annually, institutions must provide OSFA a current fee schedule for Louisiana Honors Scholarship Program billing purposes. The schedule must indicate the total cost of tuition, which shall not include any fees charged by the college or university that are in addition to the basic course enrollment charges. Independent institutions must bill LASFAC for the amount equal to the highest tuition charged at a Louisiana public college or university or the actual tuition of the independent institution, whichever is less. An itemized description of the composition of the mandatory fees listed on the fee schedule must also be supplied.

f. upon the school's certification, OSFA will reimburse the institution for each scholarship recipient up to the maximum amount listed on the approved fee schedule.

F. Louisiana State Legislators Participation/Responsibilities

1. receive OSFA's notification that constituents have been selected for award of the Honors Scholarship.

2. receive invitations from high schools in their respective districts and attend ceremonies for the purpose of endorsing the Louisiana Honors Scholarship award certificate and presenting the certificate to the recipient.

G. OSFA Participation/Responsibilities

1. budget forecasting:

a. determine the amount of funding required for continuation of the program by estimating the total new and continuing tuition exemptions expected to be awarded;

b. submit recommended budget;

c. receive notification of appropriation upon enactment.

2. certification processing:

a. forward blank certification forms and instructions to Louisiana public and approved private high schools and the Louisiana Department of Education;

b. receive, review and approve the completed high school certification listings of selectees.

3. renewal eligibility/ineligibility determination:

a. annually, at the close of each academic year, determine the recipient's current status and continuing eligibility;

b. notify recipients of their status and any actions needed.

4. award determination:

a. forward award notification to new and renewal recipients;

b. generate award listings and forward to high schools, college and university financial aid offices and to legislators;

c. maintain correspondence with colleges and universities to confirm initial and continuing eligibility of students for the Louisiana Honors Scholarship.

5. reimburse the tuition waived by colleges and universities:

a. review and approve for reimbursement the school's current schedule of fees;

b. mail Honors Scholarship billing packets to schools;

c. verify and reconcile the school's Honors Scholarship Billing Invoice;

d. resolve and correct discrepancies, if applicable;

e. mail payment acknowledgement and check to school.

H. Definitions Applicable to this Chapter

Academic year—for purposes of the Louisiana Honors Scholarship Program, the annual academic year for both college and high school begins with the summer session, includes the fall and winter terms and ends at the conclusion of the spring term, in that order. For example, for a high school graduate to be considered for award of the scholarship to attend college in the 1992 fall term, he/she must have graduated from high school during the summer term 1991 (usually June or July), mid-term 1991 (usually December), or the spring term 1992 (usually May or June). This definition is not to be confused with the Louisiana Department of Education's definition of school year, which is found in Bulletin 741.

BESE Approved Nonpublic High School—as defined in the *Louisiana School Directory* (Bulletin 1462), an approved nonpublic school meets all standards in *Standards for Approval of Nonpublic Schools*. For the purposes of this Chapter, approved nonpublic schools may include private high schools classified annually by the Department of Education as provisionally or probationally approved, if their students fulfill BESE graduation requirements.

Graduate—a student is certified (by award of the state high school diploma) to have satisfactorily completed the required units of high school work assigned from the state high school course of study prescribed by the Louisiana State Board of Elementary and Secondary Education (BESE).

Graduating class—for the purposes of this Chapter the high school graduating class is defined by the number of high school graduates from a public or approved nonpublic high school during the academic year preceding the award year.

LAICU member institution—a private college or university which is a member of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU). As of June 1992, LAICU membership included, Centenary College, Dillard University, Louisiana College, Loyola University; Our Lady of Holy Cross College, Tulane University, and Xavier University.

Top five percent determination—the top five percent of the graduating class of each public and private BESE approved high school as determined by the city and parish school boards and nonpublic approved high school principals or headmasters for each high school under their jurisdiction in accordance with the written ranking criteria approved by the board or headmaster.

In calculating the number of award winners, any fraction shall be rounded up to the next whole number.

In computing the top five percent of each high school's graduating class, the following formula shall apply: The total number of students receiving a state high school diploma from the institution during the academic year (includes summer and mid-year graduates) multiplied by the figure .05, and rounded up to the next whole number.

EXAMPLE: For a high school that awarded state high school diplomas to two summer graduates, seven mid-year graduates and 79 spring graduates during the academic year considered, the following computation would apply.

$2 + 7 + 79 = 88 \times .05 = 4.4$ round up to 5.0

Accordingly, five students may be selected for the Honors Scholarship at the high school depicted in the example.

Jack L. Guinn
Executive Director

DECLARATION OF EMERGENCY

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

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

On July 1, 1992 the department published an emergency rule expanding coverage under options provided for under the Social Security Act. The emergency rule is being redeclared to clarify the options which are being utilized including Section 1905 coverage of Long Term Care Services under the spend down medically needy program.

Section 4723 of Public law 101-508 authorizes states to provide Medicaid health care coverage to individuals whose incomes are in excess of federal limits based on payment of a premium equal to the income above the federal income standard. Additionally, under Section 1905 of the Social Security Act states may cover Long Term Care Services for the medically needy whose incomes are reduced below federal limits as a result of incurred medical expenses. Under these statutory options, Medicaid of Louisiana is expanding coverage to aged, blind, and disabled individuals in nursing facilities whose incomes are above the federal CAP of $1,266 per month but below the cost of care. While other individuals may also benefit from this expansion of coverage, this option will primarily benefit patients of nursing facilities whose incomes are insufficient to cover the cost of care. It is projected that 300-500 nursing facility patients, currently receiving limited state funded insurance coverage will benefit from this coverage expansion. While Medicaid expenditures will increase by approximately $5,000 per year, total state expenditures will decline from savings in the cost providing 100 percent state funded reimbursement of incurred medical expenditures. This emergency rule was effective July 1, 1992 and is being adopted to enhance federal funding through refinancing of state expenditures. This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

EMERGENCY RULE

Individuals applying for Medicaid health care coverage who would otherwise be ineligible based on excess income, shall be allowed to pay a premium equal to the amount of income in excess of the maximum income authorized to purchase Medicaid coverage in accordance with Section 1903(f) of the Social Security Act and Louisiana's State Plan for Medicaid. Provision of Medicaid health care coverage through premium purchase shall be governed by all applicable federal guidelines and the state's approved Title XIX Plan Agreement with the Health Care Financing Administration.

The state's Medically Needy coverage shall include Long Term Care Services provided by enrolled facilities.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

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

Under Title XIX of the Social Security Act, Medicaid is not available to individuals whose countable resources are in excess of $2,000 regardless of income. Exemption of resources has historically been limited to home property where the beneficiary resides, personal belongings, and one vehicle. All other resources have been classified as countable resources with the exception of certain trust arrangements which are reviewed individually to determine whether they are countable or excludable. The application of this policy has resulted in unequal treatment of individuals based on the source of their retirement incomes. For example, retirement benefits such as Social Security, federal employees, state employees, and company pension plans which have no cash surrender value are not considered resources. Only the income received by the individual is considered in determining eligibility for Medicaid coverage.

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

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

This rule is effective August 1, 1992 and is being adopted to enhance federal funding through refinancing of state expenditures and to protect the health and welfare of aged and disabled individuals by preventing further unnecessary impoverishment. This rule is effective for the maximum period allowed under R.S. 49:954(B) et. seq.

EMERGENCY RULE

Countable resources, such as certificates of deposit, stocks, bonds, etc., which are used to purchase an income annuity of equal value shall not be considered a transfer of resources where no change in ownership occurs. Such purchases shall be considered an allowable conversion and all payments from income annuities shall be considered income in the month received for determining Medicaid eligibility and post eligibility treatment of income. To qualify as an "income annuity" the annuity shall provide an annual income of no less than 1/16th of the annuity purchase price, in the form of uninterrupted monthly income payments to the purchaser during the life of the annuity unless:

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

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

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

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

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

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

Department of the Treasury
Board of Trustees of the Teachers' Retirement System

Policies for Implementation

The Board of Trustees of the Teachers' Retirement System, at its meeting held August 4, 1992, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and approved amendments to the Policies for Implementation of the Deferred Retirement Option Plan as follows:

* * *

6.c. completion of selected DROP participation period and termination of employment except when the DROP participation period is completed on any day other than the last day of any month. In such cases, the DROP account deposit shall be prorated to coincide with the date of completion of DROP participation and termination of employment. Retirement benefits shall begin the day after completion of the DROP participation period and termination of employment.

* * *

11. When termination of DROP occurs because of the death of the DROP participant, the participant is considered retired the day death occurs, and retirement benefits will become effective for the regular and DROP beneficiary(ies) on the first day of the month immediately following the death of the participant.

If the death occurs in the absence of the Affidavit of Plan Election the deceased participant will be treated as a non-retired, active death, and benefits will be paid to eligible survivors including spouses, spouses with minor children, minor children and non-spousal beneficiaries other than minor children in accordance with R S. 11:762(B), (C), (D) and (F).

* * *

These amendments are adopted as an emergency rule in order to place in existing policy published in the June 1992 *Louisiana Register* on page 621, the treatment of retirement benefits of participants of the Deferred Retirement Option Plan who complete plan participation and terminate employment on any day other than the last day of any month, and who expire prior to the submission of the Affidavit of Plan Election to the office of the Teachers' Retirement System of Louisiana. The effective date of this emergency rule is August 20, 1992 and will remain in effect for 120 days.

James P. Hadley, Jr.
Director

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953(B) and 49:967 (D) of the Administrative Procedure Act, and under the authority of R.S. 56:313, R.S. 56:6(25)(a) and R.S. 56:326.3, the Wildlife and Fisheries Commission hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule relative to finfish seasons effective immediately and terminating at 11:59 p.m., Friday, October 16 (the closing date of the 1992 Menhaden Fishing Season):

The menhaden season shall apply to all waters seaward of the inside-outside line described in R.S. 56:495 including waters in the Federal Exclusive Economic Zone (EEZ), and in Chandeleur and Breton Sounds as described below. All other inside waters and passes are permanently closed to menhaden fishing.

For purposes of the menhaden season, Breton and Chandeleur Sounds are described as that portion of the statutorily described inside waters as shown on a map by Raymond C. Impastato, P.L.S., dated July 20, 1992, and more particularly described as follows:

Beginning at the most northerly point on the south side of Taylor Pass, Lat. 29°23'00''N., Long. 89°20'06''W. which is on the inside-outside shrimp line as described in R.S. 56:495; thence westerly to Deep Water Point, Lat. 29°23'36''N., Long. 89°22'54''W.; thence westerly to Coquille Point, Lat. 29°23'36''N., Long. 89°24'12''W.; thence westerly to Raccoon Point, Lat. 29°24'06''N., Long. 89°28'10''W.; thence northerly to the most northerly point of Sable Island, Lat. 29°24'54''N., Long. 89°28'27''W.; thence northwesterly to California Point, Lat. 29°27'33''N., Long. 89°31'18''W.; thence northerly to Telegraph Point, Lat. 29°30'57''N., Long. 89°30'57''W.; thence northerly to Mozambique Point, Lat. 29°37'20''N., Long. 89°29'11''W.; thence northeasterly to Grace Point (red light no. 62 on the M.R.G.O.), Lat. 29°40'40''N., Long. 89°23'10''W.; thence northerly to Deadman Point, Lat. 29°44'06''N., Long. 89°21'05''W.; thence easterly to Point Lydia, Lat. 29°45'27''N., Long. 89°16'12''W.; thence northerly to Point Comfort, Lat. 29°49'32''N., Long. 89°14'18''W.; thence northerly to the most easterly point on Mitchell Island, Lat. 29°53'42''N., Long. 89°11'50''W.; thence northerly to the most easterly point on Martin Island, Lat. 29°57'30''N., Long. 89°11'05''W.; thence northerly to the most easterly point on Brush Island, Lat. 30°02'42''N., Long. 89°10'06''W.; thence northerly to Door Point, Lat. 30°03'45''N., Long. 89°10'08''W.; thence northerly to the most easterly point on Isle Au Pitre, Lat. 30°09'27''N., Long. 89°11'02''W.; thence north (grid) a distance of 19214.60 feet to a point on the Louisiana Mississippi Lateral Boundary, Lat. 30°12'37.1781''N., Long. 89°10'57.8925''W.; thence S60°20'06''E (grid) along the Louisiana - Mississippi Lateral Boundary a distance of 31555.38 feet, Lat. 30°09'57.4068''N., Long. 89°05'48.9240''W.; thence S82°53'53''E (grid) continuing along the Louisiana - Mississippi Lateral Boundary a distance of 72649.38 feet, Lat. 30°08'14.1260''N., Long. 89°52'10.3224''W.; thence South (grid) a distance of 32521.58 feet to the Chandeleur Light, Lat. 30°02'52''N., Long. 88°52'18''W., which is on the inside-outside shrimp line as described in R.S. 56:495; thence southeasterly along the inside-outside shrimp line as described in R.S. 56:495 to the point of beginning.

This emergency action was deemed necessary because the Chandeleur/Breton Sound menhaden fishing area promulgated by the commission in August 1988 contained typographical errors and discrepancies from the previous area description recognized since 1966 by the Department of Wildlife and Fisheries and the menhaden industry. These errors and discrepancies were only recently discovered.

James H. Jenkins, Jr.
Commission

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

In accordance with the emergency provision of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following emergency rule:

The hunting seasons for Dove, Teal, Rail, Gallinules, Snipe, and Woodcock during the 1992-93 hunting season shall be as follows:

Migratory Game Birds

Doves: Split Season, Statewide, 70 Days	
September 5-13 October 10 - November 8 December 12 - January 11	Daily bag 12, possession 24.
Teal Season:	
September 19-27	Daily bag 4; possession 8, Blue-winged, Green-winged and Cinnamon Teal only. Federal and state waterfowl stamp required.
Rails: Split Season September 19-27 November 21 - January 20	
King and Clapper:	Daily bag 15 in the aggregate; possession 30.
Sora and Virginia:	Daily bag and possession 25 in aggregate.
Gallinules: Split Season September 19-27 November 21 - January 20	Daily bag 15, possession 30.
Snipe: November 7 - February 21	Daily bag 8, possession 16.
Woodcock: November 28 - January 31	Daily bag 5, possession 10.

Shooting Hours:

1. Teal, Rail, Gallinule, Snipe and Woodcock - One half hour before sunrise to sunset.
2. Dove - One half hour before sunrise to sunset except on September 5-6, October 10-11 and December 12-13 when shooting hours will be 12 noon to sunset.

This declaration will be in effect beginning at sunrise September 5, 1992 and extend for the duration of the migratory bird seasons listed.

James H. Jenkins, Jr.
Chairman

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

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. 56:433 and R.S. 56:535.1, notice is hereby given that the secretary of the Department of Wild-

life and Fisheries and the Wildlife and Fisheries Commission hereby declares:

1. The Public Oyster Seed Grounds not currently under lease, and the Hackberry Bay, and Sister Lake Oyster Seed Reservations will open one-half hour before sunrise September 9, 1992. The exception will be the sacking area east of the Mississippi River.

2. The Bay Junop and Bay Gardene Oyster Seed Reservation will remain closed during the 1992/93 oyster season.

3. There will be an area on the Public Grounds east of the Mississippi River in the Lower Black Bay area set aside for sacking as prescribed by Act 46 of the 1992 Legislative Session. This area will open one-half hour before sunrise October 15, 1992.

4. The secretary of the Department of Wildlife and Fisheries is authorized to take emergency action if necessary, to close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of shell in seed oyster loads.

5. The secretary is authorized to take emergency action to reopen areas previously closed if the threat to the resource subsides.

6. Oysters taken from the Public Oyster Seed Grounds or the Oyster Seed Reservations for bedding will not be allowed in sacks or any other type container.

7. The Calcasieu and Sabine Lake Tonging areas will open one-half hour before sunrise on October 15, 1992 and remain open until one-half hour after sunset on March 1, 1993, with the secretary having the authority to extend to compensate for the health closure days.

8. Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action.

James H. Jenkins, Jr.
Chairman

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act and pursuant to R.S. 56:497 and the authority granted by the secretary of the Department of Wildlife and Fisheries by the Wildlife and Fisheries Commission on May 7, 1992, the secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule:

The 1992 spring inshore shrimp season in Zone I, that portion of Louisiana's inshore waters from the Louisiana/Mississippi State line west to South Pass of the Mississippi River will close at 12:01 a.m. Wednesday, July 22, 1992 (one minute after midnight Tuesday, July 21, 1992) except for Chandeleur and Breton Sounds which will remain open to trawling until notification of closure. The area that will remain open includes all waters within Breton and Chandeleur Sounds as described in R.S. 56:406 which are classified as inshore waters by R.S. 56:495.

The secretary finds that juvenile white shrimp have begun recruiting to these inshore areas and are present in both the department's fishery independent trawl samples and in the commercial catches in such numbers that the season closure is necessary.

Since the Sounds traditionally produce large brown shrimp without apparent detrimental effects to the fall shrimp stocks, they will remain open.

Joe L. Herring
Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967, which allows 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. The Wildlife and Fisheries Commission does hereby set the 1992 Fall Inshore Shrimp Season to open in Shrimp Management Zones I and II at 6 a.m. on Monday, August 17, 1992 and in Shrimp Management Zone III at 6 a.m. on Monday, August 10, 1992. The secretary of the Department of Wildlife and Fisheries is also hereby authorized to close the 1992 Fall Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so.

James H. Jenkins, Jr.
Chairman

Rules

RULE

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

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

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals
Chapter 117. Livestock Sanitary Board
Subchapter B. Cattle
§11731. Admission of Cattle into Louisiana

***

B. Brucellosis

* * *

4. All intact male and female cattle over 12 months of age moving into the state of Louisiana from Class B states must have a permit for entry prior to coming into Louisiana. These test eligible cattle must be quarantined and retested 45 to 120 days after movement into Louisiana. The following are exempt from this requirement:

a. individually identified, officially calfhood vaccinated females under 20 months of age for dairy breeds and under 24 months of age for beef breeds which are not preparturient (springers) or post-parturient, and the herd of origin is not known to be infected with brucellosis;

b. individually identified cattle originating from a certified brucellosis-free herd or certified brucellosis-free area, and moving directly to a Louisiana farm. The certified herd number must be recorded on the health certificate;

c. cattle accompanied by a waybill to a recognized slaughter establishment for immediate slaughter only or to an approved livestock auction market for sale for immediate slaughter, for sale to a quarantined feedlot;

d. steers and spayed heifers;

e. test-eligible cattle moving directly to a Louisiana auction market must have a permit for entry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and RS. 3:2221,

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:236 (March 1985), amended LR 11:615 (June 1985), amended LR 13:555 (October 1987), amended LR 17:354 (April 1991), amended LR 18: (August 1992).

Maxwell Lea, Jr., D.V.M.
State Veterinarian

RULE

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

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

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board
Subchapter B. Cattle
§11740. Governing the Testing of Cattle for Brucellosis

A. The testing of any cattle for brucellosis shall be done by:

1. a USDA accredited veterinarian;

2. an employee of the Louisiana Department of Agriculture and Forestry, Louisiana Livestock Sanitary Board; or

3. an employee of the USDA, Animal and Plant Health Inspection Service, Veterinary Services.

B. All cattle tested for brucellosis shall be individually identified by an official USDA eartag, individual brand, or individual tattoo. The identification shall be recorded on the official brucellosis test chart (Form VS 4-33).

C. All blood samples drawn for brucellosis testing shall be submitted to the state/federal laboratory. Each sample shall be identified and the identity recorded on the official brucellosis test chart. The test chart shall accompany the blood sample(s) to the state/federal laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2221 and R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 18: (August 1992).

Maxwell Lea, Jr., D.V.M.
State Veterinarian

RULE

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

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

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board
Subchapter B. Cattle
§11747. Establishing the Official Tests for Brucellosis in Cattle

* * *

B. Supplemental Tests

* * *

4. Particle Concentration Fluorescence Immunoassay Test (PCFIA)

This test may classify as negative, suspect, or reactor.

5. Concentration Immunoassay Technology Test (CITE®)

This test may classify as negative or reactor.

6. Any test officially approved by the USDA and recommended by the state veterinarian and the designated epidemiologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2221 and R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:240 (March 1985); LR 11:615 (June 1985); LR 18: (August 1992).

Maxwell Lea, Jr., D.V.M.
State Veterinarian

RULE

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

Under the provisions of the Administrative Procedure Act, R.S. 49:450 et seq., the Department of Agriculture and Forestry, Livestock Sanitary Board, in accordance with the authority granted under R.S. 3:2095 has amended the following rule governing the diseases of animals.

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board
Subchapter B. Cattle
§11735. Livestock Auction Market Requirements

A. Brucellosis

* * *

3. All cattle over 12 months of age, that are offered for sale, are to be identified by an official metal ear tag and to be tested for brucellosis. Exceptions to this Paragraph are:

a. steers and spayed heifers;

b. cattle consigned from quarantine feedlots that are "S" branded and permitted prior to shipment to the auction barn;

c. individually identified official brucellosis calfhood vaccinates less than 24 months of age for beef breeds and less than 20 months of age for dairy breeds, that are not pre-parturient or post-parturient;

d. individually identified cattle originating in and moving directly from a certified brucellosis free herd and accompanied by a copy of the last herd test record which includes the animals being offered for sale.

* * *

4.b. Until Louisiana is officially classified as brucellosis Class A in the Federal Code of Regulations by the USDA, Animal and Plant Health Inspection Service, Veterinary Services, all heifers and cows over 12 months of age must be brucellosis tested and be official brucellosis vaccinates (calfhood or adult), or originate from a herd that has had a complete negative herd test within the previous 12 months. A copy of the herd test record, which includes the animal(s) being tested, must accompany the animal(s) to the stockyard. All heifers and cows older than 12 months, that are not official brucellosis vaccinates or have not been part of a complete negative brucellosis herd test conducted within the previous 12 months, may be returned to the farm of origin or may be brucellosis tested, "S" branded and sold to a quarantined feedlot or to an approved slaughter establishment and shall be accompanied by a VS Form 1-27. These non-vaccinated "S" branded animals must be delivered to an approved slaughter establishment or to a Louisiana permitted livestock dealer within 72 hours of purchase. The permitted livestock dealer may hold the animals up to seven days at his approved facilities. The animals must move from the Louisiana permitted livestock dealer's premises directly to an approved slaughter establishment or to a Louisiana or USDA approved quarantined feedlot. Exceptions to this Subparagraph are:

i. official brucellosis calfhood vaccinates under 20 months of age for dairy breeds and under 24 months of age for beef breeds, which are not pre-parturient (springers) or post-parturient;

ii. individually identified cattle, moving directly from a certified brucellosis free herd and accompanied by a copy of the last herd test record, which includes the animals being offered for sale.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:237 (March 1985); amended LR 11:615 (June 1985); LR 12:501 (August 1986); LR 12:598 (September 1986); LR 13:556 (October 1987); LR 14:220 (April 1988); LR 15:695 (October 1988); LR 15:813 (October 1989); LR 18: (August 1992).

Maxwell Lea, Jr., D.V.M.
State Veterinarian

RULE

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

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

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board
Subchapter B. Cattle
§11739. Governing the Sale and Purchases, Within Louisiana, of all Livestock not Governed by Other Regulations (Brucellosis Requirements)

* * *

B. Effective while Louisiana is officially classified as brucellosis Class B in the Federal Code of Regulations by the USDA Animal and Plant Health Inspection Service, Veterinary Services, all heifers and cows over 12 months of age must originate from a herd not quarantined for brucellosis and must be official brucellosis vaccinates (calfhood or adult) or part of a herd that has had a complete negative brucellosis test, conducted within the previous 12 months and be tested negative for brucellosis 30 days prior to, or at the time of, being sold or purchased. Exceptions to this Paragraph are:

1. Individually identified official brucellosis calfhood vaccinated heifers, under 20 months of age for dairy breeds and under 24 months of age for beef breeds, that are not pre-parturient (springers) or post-parturient.

2. Individually identified heifers and cows, originating in and moving directly from a certified brucellosis free herd.

C. Effective after Louisiana is officially classified as brucellosis Class A in the Federal Code of Regulations by the USDA Animal and Plant Health Inspection Service, Veterinary Services, all heifers and cows over 12 months of age must originate from a herd not quarantined for brucellosis and be tested negative for brucellosis 30 days prior to, or at the time of being sold or purchased. Exceptions to this paragraph are:

1. Individually identified official brucellosis calfhood vaccinated heifers, under 20 months of age for dairy breeds and under 24 months of age for beef breeds, that are not preparturient (springers) or post-parturient.

2. Individually identified heifers and cows, originating in and moving directly from a certified brucellosis free herd.

D. Bulls over 12 months of age must be brucellosis test negative 30 days prior to, or at the time of sale or purchase. Exception to this Subsection is:

1. Individually identified bulls originating in and moving directly from a certified brucellosis free herd.

E. Steers and spayed heifers may move unrestricted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:238 (March 1985) LR 11:615 (June 1985); amended LR 12:502 (August 1986); LR 13:559 (October 1987); LR 18: (August 1992).

Maxwell Lea, Jr., D.V.M.
State Veterinarian

RULE

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

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

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board
Subchapter B. Cattle
§11741. Governing the Sale and Use of Brucella Abortus Antigen

A. The sale of brucella antigen, manufactured for the purpose of detecting brucellosis in food producing animals, shall be restricted, in Louisiana, to either the Louisiana Department of Agriculture and Forestry, Louisiana Livestock Sanitary Board or the USDA Animal and Plant Health Inspection Service, Veterinary Services.

B.1. The use of brucella antigen manufactured for the purpose of detecting brucellosis in food producing animals is restricted, in Louisiana, to authorized accredited veterinarians; authorized employees of the Louisiana Department of Agriculture and Forestry, Louisiana Livestock Sanitary Board; authorized employees of the USDA, Animal and Plant Health Inspection Service, Veterinary Services, and research projects approved by the state veterinarian.

2. It is a violation of the regulation for anyone other than authorized individuals to use and/or possess brucella antigen. Accredited veterinarians; employees of the Louisiana Department of Agriculture and Forestry, Louisiana Livestock Sanitary Board; and employees of USDA Animal and Plant Health Inspection Service, Veterinary Services, are considered authorized to use brucella abortus antigen to conduct a brucellosis test only when proper documentation of the test (VS Form 4-33) and all blood samples are submitted to the state/federal laboratory.

3. Use and/or possession of brucella antigen shall include any person that is present at the time an unauthorized test for brucellosis is conducted.

C.1. All cattle tested for brucellosis shall be individually identified by official eartag, individual brand number or individual tattoo (identification such as chain numbers is not acceptable.)

2. The individual identification shall be recorded on the official test chart (Form VS 4-33) and be submitted to the state/federal laboratory with the blood samples taken from each of the individually identified animal(s).

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:239 (March 1985), LR 11:615 (June 1985), LR 13:559 (October 1987), LR 18: (August 1992).

Maxwell Lea, Jr., D.V.M.
State Veterinarian

RULE

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

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

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board
Subchapter B. Cattle
§11737. Governing the Sale of Cattle in Louisiana by Livestock Dealers

A. Brucellosis

***

2.a. All cattle over 12 months of age are to be brucellosis test negative 30 days prior to sale.

***

3.b. Until Louisiana is officially classified as brucellosis Class A in the Federal Code of Regulations by the USDA Animal and Plant Health Inspection Service, Veterinary Services, all heifers and cows over 12 months of age, must be official brucellosis vaccinates, (calfhood or adult), or be from a producer's herd, (not a herd owned by the dealer), that has had a complete negative brucellosis herd test conducted in the past 12 months, be negative to a brucellosis test within 30 days prior to, or at the time of purchase by the dealer and the animals do not come in contact with animals other than those from the herd of origin. The dealer must keep a copy of the complete negative brucellosis herd test with his records, to show that the animals have met the above requirements.

***

4. Cattle over six months of age originating in brucellosis quarantined areas must originate from a qualified herd

(known not to be infected), and must be brucellosis test negative not less than 30 days from the date of herd qualification and within 30 days of the date of sale. The date and results of the test and individual identification of each animal must be recorded on the official health certificate.

5. All cattle over 12 months of age must be brucellosis test negative within 30 days prior to purchase from herds not under quarantine for brucellosis. The official test chart, health certificate, or a certificate of veterinary inspection, or an individual brucellosis test record, must be kept for a period of 24 months following the purchase of any brucellosis tested cattle. Exceptions to this paragraph are:

a. steers and spayed heifers;

b. individually identified official brucellosis calfhood vaccinated heifers under 20 months of age for dairy breeds and under 24 months of age for beef breeds;

c. individually identified cattle originating in and moving directly from a certified brucellosis free herd;

d. test eligible cattle may be moved from a producer's premises to a dealer's premises enroute to an approved stockyard or approved slaughter establishment without being tested for brucellosis, provided the test is completed within 72 hours of movement from the producer's premises and records are maintained to identify the animals and identify the herd of origin. Contact with other cattle is not permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:562, R.S. 3:2221, and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:237 (March 1985); LR 11:651 (June 1985); amended LR 12:502 (August 1986); LR 13:558 (October 1987); LR 14:221 (April 1988); LR 18: (August 1992).

Maxwell Lea, Jr., D.V.M.
State Veterinarian

RULE

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

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

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board
Subchapter E. Swine
§11777. Governing the Operation of Livestock Auction Markets

A. Pseudorabies/Brucellosis Requirements

* * *

2. All swine over six months of age, being sold at Louisiana livestock auction markets, must be identified by an official swine backtag, placed on the animal's forehead and an official metal eartag.

3. The market shall furnish the Livestock Sanitary Board's official representative a copy of each check-in slip, showing the name of the auction market, the date, the name and complete address of each consignor, and the official backtag numbers applied to the consignor's livestock. It shall be a violation of this regulation for anyone to consign livestock to a Louisiana livestock auction market and give a name and address that is not the name and address of the owner consigning the livestock to the auction market.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:245 (March 1985); amended LR 11:615 (June 1985); LR 16:392 (May 1990); LR 18: (August 1992).

Maxwell Lea, Jr., D.V.M.
State Veterinarian

RULE

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

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

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board
Subchapter E. Swine
§11776. Governing the Requirements for Quarantining, Vaccinating and Testing of Swine for Pseudorabies/Brucellosis in Louisiana

* * *

A.4. Herds of swine including feedlots, within a 1.5 mile radius of the quarantined herd, will be monitored in accordance with the recommendation of the state veterinarian and/or epidemiologist by either a test of all breeding swine or by an official random sample test.

5. A herd plan and epidemiology report must be completed within 30 days from the date an animal that originated from the herd was found to be a reactor at slaughter. A herd test must be completed within 45 days from the date an animal that originated from the herd was found to be a reactor at slaughter.

B. A herd that is quarantined because of pseudorabies must meet one of the following requirements:

1. All swine positive to an official pseudorabies test must be tagged with an official reactor tag in the left ear and permitted on Form VS 1-27 to a recognized slaughter establishment or an approved slaughter market for resale to a recognized slaughter establishment within 15 days; all swine, over six months of age and a random sampling of any growing/finishing swine which remain in the herd, must be test negative 30 days or more after removal of reactors. No livestock on the premises shall have shown signs of pseudorabies after removal of reactors.

2. Whole herd depopulation - all swine on the premises must be tagged with an official reactor tag in the left ear

and permitted on a Form VS 1-27 to a recognized slaughter establishment or an approved slaughter market for resale to a recognized slaughter establishment. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant prior to putting swine back on the premises.

C. A herd of swine quarantined because of brucellosis must meet one of the following requirements:

1. All swine positive to an official brucellosis test must be tagged with an official reactor tag in the left ear and permitted on Form VS 1-27 to a recognized slaughter establishment or an approved slaughter market for resale to a recognized slaughter establishment within 15 days. All swine over six months of age which remain in the herd, must be tested according to an approved herd plan. A herd may be released from quarantine upon completion of three negative complete herd tests (CHT). The first test must be completed at least 30 days after removal of the last reactor. A second CHT must be conducted 60-90 days following the first CHT. A third CHT is required 60-90 days following the second CHT.

2. Whole herd depopulation - all swine on the premises must be tagged with an official reactor tag in the left ear and permitted on a form VS 1-27 to a recognized slaughter establishment or an approved slaughter market for resale to a recognized slaughter market. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant prior to putting swine back on the premises.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 16:392 (May 1990) amended LR 18: (August 1992).

Maxwell Lea, Jr., D.V.M.
State Veterinarian

RULE

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

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

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board
Subchapter A. General Provisions
§11701. Definitions

* * *

Official Random Sample Test — a sample test of swine in a herd which provides a 95 percent probability of detecting infection in a herd. Each segregated group of swine on an individual premises is considered a separate herd and sampled as follows:

Less than 100 head	Test 25
100 - 200 head	Test 27
201 - 999 head	Test 28
1000 - and over	Test 29

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985); amended LR 12:289 (May 1980); LR 12:498 (August 1986); LR 14:129 (April 1988); LR 15:812 (October 1989); LR 16:391 (May 1990); LR 17:29 (January 1991); LR 18: (August 1992).

Maxwell Lea, Jr., D.V.M.
State Veterinarian

RULE

Department of Economic Development
Office of Commerce and Industry

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and under the authority of Louisiana Const. Art VII, Section 21(F), R.S. 39:104, and 51:1781 et seq. relative to the authority of the Department of Economic Development to promulgate rules, notice is hereby given that the Department of Economic Development, Office of Commerce and Industry hereby repeals the following rules, LAC XIII.I.2101-2111 providing a formula to evaluate the environmental compliance of applicants for tax exemptions:

Title 13
ECONOMIC DEVELOPMENT
Part I. Office of Commerce and Industry
Subpart 1. Finance

Chapter 21. Environmental Criteria For Rating Tax Exemptions

§2101-2111. Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21 (F); R.S. 33:4702, 47:1121-1128, 47:3201-3206, 47:4301-4305, 51:1781-1787.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry; Financial Incentives Division; LR 17:768 (August 1991), repealed LR 18: (August 1992).

Harold Price
Assistant Secretary

RULE

Department of Environmental Quality
Office of the Secretary

As mandated by Act 1052 of the 1991 Louisiana Legislature under the authority R.S. 47:6005, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has adopted the Solid Waste Regulations, LAC 33:VII.Subpart 2.Chapter 104 (OS11).

These regulations establish technical specifications and certification requirements for the qualification of recy-

cling equipment for an income/franchise tax credit established pursuant to Act 1052 of the 1991 Legislative Session.

Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste
Subpart 2. Recycling

Chapter 104. Credit for Recycling Equipment

§10401. Authority

These regulations are hereby established by the Department of Environmental Quality (DEQ) in consultation with the Department of Revenue and Taxation (DRT) as mandated by Act 1052 of the 1991 Louisiana Legislative Session. These regulations are to establish technical specifications and certification requirements for the qualification of recycling equipment for the credit against income and corporate franchise taxes provided by R.S. 47:6005 relative to the purchase of qualified recycling equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18: (August 1992).

§10403. Applicability

These regulations apply to taxpayers who purchase qualified recycling equipment, as defined in LAC 33:VII.10405, on or after September 1, 1991, and on or before December 31, 1996, and who apply for tax credit pursuant to R.S. 47:6005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18: (August 1992).

§10405. Definitions

For the purpose of this Chapter the terms below shall have the meaning specified herein as follows:

Post-Consumer Waste Material—an product generated by a business or consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, marketing and disposition and which does not include secondary waste material, hazardous waste, or demolition waste.

Qualified Recycling Equipment—new machinery or new apparatus used exclusively to process post-consumer waste material, recovered material, or both and manufacturing machinery used exclusively to produce finished products, the composition of which is at least 50 percent post-consumer waste material, recovered material, or both. For the purposes of this Chapter "qualified recycling equipment" does not include vehicles, and does not include structures, equipment, or devices used to store or incinerate waste material.

Recovered Material—material which has known recycling potential, can be feasibly recycled, and has been diverted or removed from the solid waste stream for sale, use, or reuse, by separation, collection or processing, as defined in R.S. 30:2412(7) and which would otherwise be processed or disposed of as nonhazardous solid waste.

Recycling—any process by which nonhazardous solid waste, or material which would otherwise become solid waste, is collected, separated, or processed and reused or returned to use in the form of raw material or products.

Secondary Waste Material—waste material generated after the completion of a manufacturing process.

Solid Waste—any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant; or air pollution control facility, and other discarded material, including solid, liquid, semi-solid,or contained gaseous material resulting from industrial, commercial, mining, and agricultural opeations, and from community activities, but does not include or mean solid or dissolved mateial in domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under R.S. 30:2074, or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. §2011 et seq.), or hazardous waste subject to permits under R.S. 30:2171 et seq. The definition of solid waste shall not include uncontaminated scrap metal materials which are purchased for resale to be recycled or reused and are not destined for disposal.

Vehicle—an automobile; motorcycle; truck; trailer; semitrailer; truck, tractor, and semitrailer combination; or any other vehicle used to transport persons or property and propelled by power.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18: (August 1992).

§10407. Technical Specifications for Qualified Recycling Equipment

A. In order to qualify for certification as qualified recycling equipment, the equipment must process nonhazardous solid waste and meet the following requirements:

1. be new machinery or new apparatus used exclusively to process post-consumer waste material, recovered material, or both; or

2. be manufacturing machinery used exclusively to produce finished products, the composition of which is at least 50 percent post-consumer waste material, recovered material or both; and

3. be used exclusively in Louisiana.

B. The following categories of equipment will be excluded from certification as qualified recycling equipment:

1. any equipment, including structures, which is neither machinery nor an apparatus;

2. vehicles as defined in LAC:33.VII.10405;

3. in-kind replacement of parts for machinery or apparatus;

4. machinery, equipment or devices used to store or incinerate waste material; and

5. used equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18: (August 1992).

§10409. Application Requirements

A. Application Form

1. In order to qualify for the tax credit provided for in R.S. 47:6005, the applicant must first complete an application form provided by the Department of Environmental Quality for certification from the secretary of the DEQ that the equipment purchased is qualified recycling equipment as defined in LAC 33:VII.10405 and will be used exclusively in Louisiana.

2. In addition to information provided on the application form, the DEQ may require and the applicant shall provide cost estimates, engineering drawings, specifications sheets and any other documentation as may be necessary to establish with sufficient specificity the equipment qualifying for the tax credit.

3. In addition to information provided on the application form, the DEQ may require and the applicant shall provide documentation as may be necessary to establish with sufficient specificity that the post-consumer waste material or recovered material proposed to be recycled is a nonhazardous solid waste under applicable state and federal law and regulations.

B. The applicant must report final cost of recycling equipment purchases to the Department of Revenue and Taxation and the Department of Environmental Quality. Audits will be performed by the Department of Revenue and Taxation and the Department of Environmental Quality as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18: (August 1992).

§10411. Applicant Certification

A. Included with the application for certification shall be a statement acknowledging that the applicant shall make a good faith effort to utilize post-consumer waste material or recovered material generated within the state of Louisiana, or destined to be land-filled within the state; and the post-consumer waste material or recovered material proposed to be recycled is a nonhazardous solid waste under applicable state and federal law and regulations.

B. The applicant shall certify to the accuracy of the information contained in the application regarding the equipment description, date of purchase and cost. The certification shall also state that the equipment is used exclusively in Louisiana and has not previously qualified for an income and corporation franchise tax credit pursuant to R.S. 47:6005 either for the owner or for a previous owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18: (August 1992).

§10413. Department of Environmental Quality Certification

A. Prior to certification, the secretary of the Department of Environmental Quality shall determine that any post-consumer waste material or recovered material proposed to be recycled by the applicant is a nonhazardous solid waste under applicable state and federal law and regulations.

B. The secretary of the Department of Environmental Quality shall examine the application and, if qualified, shall certify that the equipment described therein is qualified recycling equipment used exclusively in Louisiana and is eligible for credit against state income and corporation franchise taxes pursuant to R.S. 47:6005.

C. Upon certification, the secretary of the Department of Environmental Quality shall submit a copy of the signed, certified application to the applicant and to the secretary of the Department of Revenue and Taxation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18: (August 1992).

§10415. Amount of Credit

A. The maximum total credit related to a purchase of qualified recycling equipment which may be allowable for all taxable periods is 20 percent of the cost of the qualified recycling equipment, less the amount of any other Louisiana tax credits for purchase of the equipment. Example:

Cost of equipment	$1,000,000
	× .20
	$ 200,000
Less other Louisiana credit on purchase	$ 100,000
Maximum credit for all taxable periods	$ 100,000

B. One-fifth (20 percent) of the maximum total credit related to a purchase of qualified recycling equipment is earned each taxable period in which the equipment continues to be in use exclusively in Louisiana to a maximum of five periods. Example:

Maximum credit for all taxable periods	$100,000
	× .20
Credit earned for this taxable period	$ 20,000

C. The maximum credit which may be claimed for all purchases of qualified recycling equipment, including carryover of previously earned but unused credits, in any taxable period shall not exceed 50 percent of the tax which would be otherwise due. Example:

Tax otherwise due: Income tax	$ 12,000
Franchise tax	$ 18,000
Total	$ 30,000
	× .50
Maximum credit to be claimed on return	$ 15,000

D. Any unused credit for a taxable period in which a credit is earned may be carried forward to subsequent years until the credit is exhausted.

E. If the qualified recycling equipment is sold or exchanged before the entire credit is claimed, any unearned portion of the credit shall be canceled for all periods following the period of sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18: (August 1992).

James B. Thompson, III
Assistant Secretary

RULE

Department of Health and Hospitals
Board of Dentistry

(Editor's Note: The following are corrections to final rules of the Department of Health and Hospitals, Board of Dentistry, which were published in the July 20, 1992 *Louisiana Register*, and appeared on pages 742 and 743.)

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions

Chapter 12. Transmission Prevention of Hepatitis B Virus and Human Immunodeficiency Virus

§1202. Definitions

* * *

HBV Seronegative — a condition where one has been HBV seropositive but is no longer infectious under the criteria of the Federal Centers for Disease Control or the Association of State and Territorial Public Health Laboratory Directors, or where one has never been infected with HBV.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992), repromulgated LR 18: (August 1992).

§1203. Universal Precautions

A. All dental health care providers who perform invasive procedures or perform functions ancillary to invasive procedures shall, in the performance of any such procedures or functions, strictly observe recognized universal precautions as currently recommended by the Federal Centers for Disease Control to minimize the risk of transmission of HBV or HIV.

B. In the event that the Federal Centers for Disease Control issues a new version of its recommendations for universal precautions, the board will take into consideration the nature of the changes to those recommendations and establish a reasonable period of time in which dental health care providers have to comply with any new or altered recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992), repromulgated LR 18: (August 1992).

§1206. Exception; Informed Consent of Patient

* * *

A.1. The dental health care provider has affirmatively advised the patient, or the patient's lawfully authorized representative, that the dental health care provider has been diagnosed as HIV seropositive or HBV seropositive as the case may be.

2. The patient, or the patient's lawfully authorized representative, has been advised of the risk of the dental health care provider's transmission of HIV or HBV to the patient during an exposure-prone invasive procedure. Such information shall be communicated personally by the dentist to the patient or the patient's lawfully authorized representative.

* * *

4. The dental health care provider's HIV or HBV serpositivity has been affirmatively disclosed to each dental health care provider or other health care personnel who may participate or assist in the exposure-prone procedure.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992), repromulgated LR 18: (August 1992).

§1207. Self-Reporting

* * *

G. Reports from two physicians and two laboratories evidencing change in the dental health care provider's serostatus shall be submitted to the executive director for broad evaluation of the change of serostatus when any dental health care provider previously verified as HBV seropositive who becomes HBV seronegative.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992), repromulgated LR 18: (August 1992).

C. Barry Ogden
Executive Director

RULE

Department of Health and Hospitals
Board of Medical Examiners

(**Editor's Note:** The following rule appearing on pages 744-746 of the *Louisiana Register*, July 1992, is being republished to correct typographical errors.)

Title 46
Professional and Occupational Standards
Part XLV. Medical Professions
Subpart 3. Practice

Chapter 69. Prescription, Dispensation and Administration of Medications

Subchapter A. Medications Used in the Treatment of Obesity

§6901. Scope of Subchapter

The rules of this Subchapter govern physician prescription, dispensation, administration or other use of medications for weight control or weight reduction in the medical treatment of obesity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

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

§6903. Definitions

As used in this Subchapter, the following terms shall have the meanings specified:

Anorectic means a drug, medication or substance used or intended for use as an appetite suppressant.

Schedule II Controlled Substance means any substance so classified under and pursuant to regulations of the Drug Enforcement Administration (DEA), U.S. Department of

Justice, 21 C.F.R. §1308.12, or any substance which may hereafter be so classified by amendment or supplementation of such regulation.

Schedule III Anorectic means and includes benzphetamine, phendimetrazine and any other substance now or hereafter classified as a Schedule III controlled substance under and pursuant to Federal DEA regulations, 21 C.F.R. §1308.13, and which is indicated for use in the treatment of exogenous obesity by express approval of the U.S. Food and Drug Administration (FDA).

Schedule IV Anorectic means and includes fenfluramine, phentermine, diethylpropion, mazindol and any other substance now or hereafter classified as a Schedule IV controlled substance under and pursuant to Federal DEA regulations, 21 C.F.R. §1308.14, and which is indicated for use in the treatment of exogenous obesity by express approval of the FDA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

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

§6905. Prohibitions

A. Absolute Prohibitions. A physician shall not prescribe, dispense, administer, supply, sell, give or otherwise use to or for any person for the purpose of weight control or weight reduction in the treatment of obesity any amphetamine, dextroamphetamine, methamphetamine or phenmetrazine drug or compound; any Schedule II Controlled Substance; human chorionic gonadotropin (HCG); thyroid hormones; diuretic medications; or any drug, medication, compound, or substance which is not indicated for use in the treatment of exogenous obesity by express approval of the U.S. Food and Drug Administration (FDA).

B. Schedule III-IV Anorectics. A physician shall not prescribe, dispense or administer Schedule III or Schedule IV anorectics for the purpose of weight reduction or control in the treatment of obesity other than in strict conformity with each of the conditions and limitations prescribed by §6907 of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B),

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

§6907. Use of Schedule III-IV Anorectics; Conditions, Limitations

A. General Conditions. A physician shall not prescribe, dispense, or administer a Schedule III or Schedule IV anorectic for the purpose of weight reduction or control in the treatment of obesity except as a short-term adjunct to a therapeutic regimen of weight reduction based on prescribed sound nutrition, caloric restriction, exercise, and behavior modification and otherwise in accordance with the FDA-approved labelling of the medication. Schedule III-IV anorectics may be prescribed, dispensed, or administered only to an adult patient who is obese under recognized generally accepted criteria for determining obesity, whose obesity is exogenous and not primarily metabolic, who is not pregnant, who does not suffer from or have any disease or condition constituting a recognized contraindication for use of the substance, and who otherwise satisfies the conditions requisite to treatment with anorectics as prescribed by this Section.

B. Requisite Prior Conditions. Before initiating treatment utilizing a Schedule III or IV anorectic with respect to any patient, a physician shall:

1. obtain a thorough prior history, including the patient's weight loss/gain history and prior efforts at weight reduction;

2. perform a thorough and complete physical examination;

3. determine that the patient is a proper candidate for weight reduction treatment and that the patient's obesity is not primarily metabolic;

4. rule out the presence of conditions recognized as contraindicating the use of anorectic medications, including, without limitation, pregnancy, hypertension, and hypersensitivity or idiosyncrasy to anorectics;

5. determine whether the patient has a history of or any tendency or propensity toward abuse of drugs, including alcohol;

6. determine that the patient has made a substantial good-faith effort at weight reduction under a *bona fide* program not utilizing anorectics;

7. take reasonable measures to ensure that the patient has not previously, in the course of treatment by one or more other practitioners, or otherwise, obtained and used anorectics in excess of the quantitative and durational limitations on the use of anorectics prescribed by Subsection E of this Section; and

8. provide the patient with a carefully prescribed diet, together with counselling on exercise and, as appropriate, other supportive or behavioral therapy.

C. Initiation of Anorectic Use. Upon completion and satisfaction of the conditions prescribed by Subsections A and B of this Section and upon the physician's judgment that the prescription, dispensation or administration of an anorectic medication is medically warranted, the physician shall initiate anorectic treatment with the lowest dosage expected to be effective, as indicated by the manufacturer's FDA-approved dosage recommendation, employing a Schedule IV anorectic in preference to a Schedule III anorectic and refraining from use of Schedule III anorectics until and unless the anorectic initially used proves ineffective.

D. Continued Use of Anorectics. During the continued use of anorectics as permitted in this Section, and subject to the limitations prescribed in Subsection E hereof, the physician shall monitor the patient's progress closely and frequently, shall re-examine the patient not less frequently than monthly during such continued use and shall continue use of anorectics only if, upon each such re-examination, the patient demonstrates continued clinically significant weight loss since the prior examination.

E. Limitations on Use. A physician shall not prescribe or dispense Schedule III or IV anorectics to any patient:

1. in dosage greater than the maximum dosage indicated by the anorectic manufacturer's FDA-approved dosage recommendation;

2. in number or dosage units greater than an amount sufficient for use of the anorectic for a period of 30 days; or

3. for an aggregate period in excess of 12 weeks during any 12-month period.

F. Termination of Anorectic Use. Without regard to the permissible limitations otherwise prescribed by Subsection E hereof, a physician shall refuse to initiate or re-initiate or shall terminate the use of anorectics with respect to a patient on

any date that the physician determines, becomes aware, knows or should know that;

1. the patient is not a proper candidate for the use of anorectics under the conditions and limitations prescribed by this Section;

2. the patient has failed to demonstrate clinically significant weight loss since anorectics were last prescribed, dispensed or administered to the patient by the physician;

3. the patient has developed tolerance to the appetite suppressant effect of the anorectic or has experienced euphoria followed by irritability or depression;

4. the patient has engaged in excessive use, misuse or abuse of the anorectic or has otherwise consumed or disposed of the anorectics or any other controlled substance other than in strict compliance with the directions and indications for use given by the physician; or

5. the patient did not demonstrate clinically significant weight loss during a prior term of use of anorectics within the limitations of §6907(E)(3) hereof.

G. Treatment Records. Satisfaction of each of the conditions and requirements prescribed by this Section, all material elements of the patient's history, all significant findings from physical examination and diagnostic testing, and all medication and other treatment, including diet, prescribed by the physician, shall be accurately and completely recorded, documented and dated, in writing, by the physician in the patient's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

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

§6909. Exemption of Controlled Scientific Studies

The prohibitions, conditions and limitations on the use of Schedule III and Schedule IV anorectic medications prescribed by §6905(B) and §6907 of this Subchapter shall not be applicable to a physician engaged in the conduct of a controlled scientific study of the efficacy of such medications in the medical treatment of obesity, provided that the physician is employed by or otherwise officially affiliated with an accredited medical school or college or other institution of higher learning located in the state of Louisiana, such study is conducted under the auspices of such school, college or institution, and the interim and final results of such study are furnished to the board in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

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

§6911. Exceptions in Individual Cases

A. Availability of Exceptions. Upon written application to the board made in accordance with this Subsection, the board may authorize a physician, with respect to an identified individual patient, to exceed or otherwise depart from the prohibitions, conditions and limitations on the use of Schedule III or Schedule IV anorectics otherwise prescribed by §6905(B) and §6907 of this Subchapter.

B. Form, Content of Application for Exception. An application for board approval of an individual exception from the provisions of this Subchapter shall be submitted to the board's medical consultant in writing and shall contain:

1. individual identification of the patient to whom the physician proposes to prescribe, dispense or administer anorectics other than in accordance with the provisions of this Subchapter;

2. a summary of the patient's medical and weight loss/gain history;

3. a complete copy of the patient's medical record, including a record of all anorectic medications prescribed, dispensed or administered to or for the patient within 24 months prior to the application;

4. a statement by the physician of the specific manner in which the physician proposes to deviate from the provisions of this Subchapter respecting the prescription, dispensation and administration of anorectic medications, together with a statement by the physician of the medical facts and circumstances deemed by the physician to justify such departure; and

5. such other information and documentation as the board or its medical consultant may request.

C. Board Action. The board may deny, grant, or grant in part any application for exception in an individual case made under this Section. The board's action on any such application shall be stated in writing and shall specify the manner and extent to which the physician shall be authorized to depart from the provisions of this Subchapter and the period of time during which such authorized exception shall be effective. A physician who makes application to the board under this Section shall not deviate from the prohibitions, conditions and limitations provided in this Subchapter except following receipt of written authorization from the board or other than pursuant to the specifications and limitations of such authorization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

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

§6913. Effect of Violation

Any violation of or failure of compliance with the provisions of this Subchapter, §6901-6913, shall be deemed a violation of R.S. 37:1285(A)(6) and (29), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

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

Delmar Rorison
Executive Director

RULE

Department of Health and Hospitals
Office of Alcohol and Drug Abuse

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Health and Hospitals, Office of Alcohol and Drug Abuse is hereby adopting amendments to the guidelines for administering the revolving fund account for establishing group homes for recovering substance abusers.

Title 48
PUBLIC HEALTH
Part VII. Alcohol and Drug Abuse Services

Chapter 7. Group Home for Recovering Substance Abusers

§703. Definitions

A. - F. ...

G. *Organizational loan* - a loan to a chartered or unchartered non-profit entity (as described in §709 A.1 and 2 hereinafter) for the purpose of enabling a group of not less than four individuals to establish a group recovery home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Alcohol and Drug Abuse, LR 15:1081 (December 1989), amended LR 17:603 (June 1991), amended LR 18: (August 1992).

§712. Organizational Loan

A. Organizational loans are those made to non-profit entities or groups of four or more individuals for the purpose of enabling recovering persons to establish a group recovery home.

B. Restrictions on Organizational Loans:

1. must provide for housing for four or more residents in recovery;

2. limited to not less than $500 nor more than $4,000 per group;

3. must be repaid within 24 months of issuance;

4. each loan subject to five percent simple interest rate;

5. may not be used for purchases of property of a personal nature, nor for personal expenses other than as approved by the department and/or the applicant group; uniforms and travel expense to attend work, excepted.

6. any personal property purchased (such as home furnishings) becomes the property of the group recovery home;

7. must be used to defray rental costs, security, utility and other required deposits, and basic furnishings required for occupancy;

8. a portion of the proceeds from an organizational loan may be used to liquidate a prior "bridge loan" made to a sponsoring organization on behalf of the resident group;

9. applicant group must meet eligibility requirements established in §709;

10. chartered organizations applying on behalf of a group of four or more individuals must provide assurance of compliance with §703.C, and §705 above, and may impose no other regulation on the group recovery home or its residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and hospitals, Office of Alcohol and Drug Abuse, LR 15:1081 (December 1989), amended LR 17:603 (June 1991), amended LR 18: (August 1992).

J. Christopher Pilley
Secretary

RULE

Department of Health and Hospitals
Office of Management and Finance
HIV Program Office

The Department of Health and Hospitals, Office of Management and Finance, HIV Program Office, is adopting the following rule regarding the implementation of a program to provide financial assistance to eligible, low-income individuals disabled by AIDS or HIV related illness in the payment of individual or group health care insurance premiums.

Definitions—When used in this subpart, unless expressly stated otherwise or unless the context of subject matter requires a different interpretation:

A. *Program*—the health insurance continuation program for persons disabled by AIDS or HIV related illness.

B. *Health Insurance*—insurance or an employee benefit plan which reimburses all or part of costs incurred as a result of sickness, ailment or bodily injury.

C. *Health Insurance Cost*—the premiums paid by or on behalf of a person disabled by AIDS or HIV related illness for health insurance.

D. *Disabled by AIDS or HIV Related Illness*—persons who are diagnosed by a physician as being disabled by acquired immune deficiency syndrome (AIDS) or human immune deficiency virus (HIV).

E. *Poverty Guideline*—the official federal income poverty guideline applicable to a family of the same size as the applicant's as published annually in the *Federal Register*.

F. *Service Agency*-a non-profit agency receiving funding from the Louisiana Department of Health and Hospitals for HIV related services.

G. *Department*—the Louisiana Department of Health and Hospitals.

H. *Income*—as defined in the official federal income poverty guideline applicable to a family of the same size as the applicant's as published annually in the *Federal Register*.

Eligibility Requirements—Persons eligible for assistance under this program must:

1. be a person disabled as a result of AIDS or HIV-related illness;

2. be a Louisiana resident and reside in Louisiana;

3. reside in a family whose income is less than or equal to 165 percent of the annual federal poverty guideline;

4. have available resources less than $4,000, based on Medicaid guidelines;

5. be eligible to continue an existing health insurance policy.

Application Guidelines.

A. Persons apply for benefits under this program must:

1. complete and submit an application for assistance to their local department funded service agency in order that the agency may determine whether the person is eligible for this program;

2. provide documentation of disability as a result of AIDS or HIV related illness completed by a physician at the time of application;

3. provide information as may be necessary for the payment of health insurance costs by the department including but not limited to the name and address of the employer and/or health insurance company, the last day of employment, the type of policy, the amount of the premium and the

date by which the premium must be paid.

B. The application must be completed and submitted to the service agency by the person applying for benefits under this program, or by an authorized representative of such individual.

Authorization Period—Authorization for benefits under this program may be granted for a period of up to one year. Continued eligibility may be reauthorized for additional periods of six months or less, as determined by the program.

Termination—Eligibility for benefits under the health insurance continuation program may be terminated if the beneficiary:

A. subsequently is determined to reside in a family whose income is greater than 165 percent of the federal poverty guideline;

B. subsequently is determined to have assets of greater than $4,000;

C. no longer maintains a permanent residence in Louisiana;

D. does not abide by the guidelines of the program; or

E. is deceased.

Reporting Requirements—Service agencies will submit reports to the department as required under the department and Ryan White Uniform Reporting System.

Fair Hearing—Persons applying for and denied benefits under this program are entitled to request 1) an informal conference or 2) a fair hearing to review the decision of the service agency.

Payment of Health Insurance Costs

A. Payment of the health insurance costs for persons eligible under this program will be made directly to the employer or insurance company.

B. Payments under this program are limited to a maximum of $500 per month. Payment of premium amounts in excess of $500 will be the responsibility of the individual. Payments will not include further payments for co-payments, deductibles, or any other costs incurred by the person with AIDS.

Confidentiality—The confidentiality of HIV and AIDS related information is required in accordance with R.S. 40:38.5. Each disclosure of confidential HIV-related information must be accompanied by the appropriate release.

Forms—The Department of Health and Hospitals, Office of Management and Finance, HIV Program Office has developed forms for use in determining individual eligibility. These include an application form, a final eligibility checklist, an eligibility screening decision path, a release of information form, a physician's statement form, and any additional forms deemed necessary.

J. Christopher Pilley
Secretary

RULE

Department of Health and Hospitals
Office of Management and Finance
HIV Program Office

The Department of Health and Hospitals, Office of Management and Finance, HIV Program Office is adopting the following rule regarding the implementation of a program to provide persons with HIV infection with home based care.

Definitions

When used in this subpart, unless expressly stated otherwise or unless the context of subject matter requires a different interpretation the terms below shall have the following meanings:

A. *Program* — the home health care program for HIV infected persons.

B. *Home Based Care* — medical, hospice, and support services provided in the client's home by a licensed Home Health Care or Hospice agency.

C. *Poverty Guidline* — the federal income official poverty line applicable to a family of the same size as the applicant's as published annually in the *Federal Register.*

D. *Service Agency* or *Agency* — the licensed home health or hospice agency which has a contract to provide services.

E. *Department* — the Louisiana Department of Health and Hospitals.

Service Covered by this Program

All services provided under this program are to be performed in the home for HIV infected clients at a physician's order. Visits are limited to a maximum of twice a day unless otherwise indicated.

A. Skilled Nursing including but not limited to:

1. medication preparation, administration, and monitoring;

2. care of peripheral and central access devices;

3. insertion, irrigation and maintenance of foley catheters;

4. complex wound care and dressing changes;

5. oxygen therapy and monitoring and other respiratory therapy;

6. venipuncture for laboratory studies;

7. client/significant other education:

a. medications and adverse effects;

b. diet;

c. self care;

d. disease process;

e. treatments;

f. custodial care;

g. infection control procedures;

8. aerosolized Pentamidine treatments (IM pentamidine is not covered by this program);

9. palliative care focusing on pain relief and symptom control.

B. Home Health Aides (maximum of two hour visits and five visits per week) to assist with activities of daily living.

C. Personal Care Attendants to provide services including light housework, grocery shopping, and cooking (maximum of five visits per week).

D. Supplies, durable medical equipment rental.

E. Medications at a maximum of 30 percent above cost. IV therapy needed more than once a day up to three times a day can be covered for up to eight weeks. Daily IV therapy can continue for the duration of the home based care. Medications covered are those provided under the Level 1 and 2 state formularies or a formulary approved by the department. Clients eligible for medications through the formulary should receive them through this mechanism.

F. Physical therapy.

G. Social worker services (maximum of two visits a week).

H. Routine diagnostic tests.

I. Nutritional therapy following the Louisiana Medicaid

Guidelines including supplements at a maximum of 30 percent above cost. (Physician order need not specify enteral via tube for this program). Total parenteral nutrition is not covered by this program.

J. Pastoral Care.

K. Bereavement Follow-up.

L. Trained volunteers to provide support to the client and family through tasks such as shopping, sitting, running errands, preparing meals, and listening.

Client Eligibility

A. Client must be HIV infected.

B. Client desires home care as determined and documented by the social worker/case manager.

C. Service is not covered by any other third party coverage. This program should be used when all other sources of payment for home based care have been exhausted. This program will supplement gaps in existing third party coverage for services listed including covering beyond the amount and frequency covered by Medicaid.

D. Client must have a family income of less than 200 percent of the federal poverty guidelines updated annually and available resources less than $4,000 based on Medicaid guidelines.

E. Client must have a physician who will provide orders in writing or verbally to the agency prior to discharge, act as that client's physician after discharge, maintain a consistent plan, and communicate changes from the initial plan directly to the agency or the physician must be willing to transfer the client to the care of the agency physician. If verbal orders are given to the agency, written orders must follow within 48 hours.

F. Client is certified by the agency and the client's physician as not being in need of acute care.

G. Client's physician or physician's associates are available 24 hours a day by phone or beeper or agrees that the home care agency may refer the client to an emergency room for problems.

Agency Requirements

A. Agency is licensed Home Health Care or Hospice provider.

B. Agency will confirm client's eligibility for the program as stated above.

C. The home care nurse must obtain a clinical status report and home care orders from the physician for the referred client prior to beginning care, will conduct a first visit with the client and will develop a written plan of care. Progress notes will be kept and the client will be recertified for Home Based Care and the plan of care updated at least every 60 days. The home care nurse will maintain ongoing communication with the physician and case manager in compliance with Medicaid and Medicare Guidelines.

D. Home care will begin within 24 hours of discharge or order.

E. Nurse will be available for consultation on a 24 hour, seven day a week basis.

F. Agency will participate in the Ryan White Consortium for the region to which they provide care and have a representative present at a minimum of 50 percent of the monthly consortium meetings.

Application Guidelines

A client can be recommended for home care by the physician, nurse, social worker, or case manager involved with the client's care. Client's eligibility must be verified by the service agency and verification provided to the department. Written orders for home based care services must be provided by the client's physician.

Termination

Eligibility for services under this program will be terminated if the client:

A. subsequently is determined to have a family income greater than 200 percent of the federal poverty line;

B. subsequently is determined to have assets of greater than $4,000;

C. is not stable enough to be cared for outside of the acute care setting as determined by the agency or the client's physician;

D. moves from Louisiana;

E. no longer has a stable home environment appropriate for the provision of home care as determined by the agency or the case manager;

F. no longer desires home based care;

G. no longer medically requires home based care as determined by the agency or the physician.

Reporting Requirements

Agencies will submit invoices for services as provided as required. Agencies will provide individual client service utilization reports as required under the Ryan White Uniform Reporting System.

Fair Hearing

Persons requesting and denied services under this program are entitled to request a conference and/or fair hearing to review the decision of the service agency.

Payment for Services

Payment for home based services delivered under this program will be made directly to the service agency.

Confidentiality

The confidentiality of HIV and AIDS related information is required in accordance with R.S. 40:38.5. Each disclosure of confidential HIV-related information must be accompanied by the appropriate release.

Forms

The Department of Health and Hospitals, Office of Management and Finance, HIV Program Office has developed example forms that can be used in this program. These include client eligibility checklist and release of medical information form. In addition, a client service utilization report will be developed. While the specific forms do not need to be used, the information contained on the forms must be collected and provided to the department.

J. Christopher Pilley
Secretary

RULE

Department of Health and Hospitals
Office of the Secretary

The Department of Health and Hospitals (DHH) is applying for Block Grant Federal Funding for FY 1992-93 in accordance with Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, and with federal regulations as set forth in the *Federal Register,* Vol. 47, No. 129, July 6, 1982, pages 29472-29493. DHH will continue to administer

programs funded under the Block Grants in accordance with provisions set forth in Public Law 97-35 and the federal regulations.

The Block Grants and the offices responsible for program administration are as follows:

1. Alcohol Drug Abuse and Mental Health Services - Office of Mental Health and Office of Substance Abuse. Inquiries and comments may be addressed to Joseph R. Williams, Jr., Assistant Secretary, Office of Substance Abuse or Walter W. Shervington, M.D., Assistant Secretary, Office of Mental Health, Box 4049, Baton Rouge, LA. The application is available for review at any mental health facility.

2. Maternal and Child Health Services - Office of Public Health. Inquiries and comments may be addressed to Larry Hebert, M.D., Assistant Secretary, Office of Public Health, Two United Plaza, 8550 United Plaza Blvd., Baton Rouge, LA, 70808. The application is available for review at any regional OPH facility.

3. Preventive Health and Health Services - Office of Public Health. Inquiries and comments may be addressed to Larry Hebert, M.D. Assistant Secretary, Office of Public Health, Two United Plaza, Suite 300, 8550 United Plaza Blvd., Baton Rouge, LA, 70808. The application is available for review at any regional OPH facility.

J. Christopher Pilley
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, adopts the following rule in the Medical Assistance Program. The notice of intent was published on February 20, 1992 (Vol. 18, No. 2, page 210).

The bureau has developed program policy and payment standards which will allow federal financial participation in the funding of Optional Targeted Case Management Service for Title XIX eligible infants and toddlers who are ages birth through two inclusive (0-36 months) who have established medical conditions, other biological factors or are developmentally delayed as defined in Part H of the Individuals with Disabilities Education Act. These criteria are further defined in chapter 34 of the Code of Federal Regulations (CFR), Section 303.300.

As a result of public comments received, minor clarifying corrections have been made to the rule. Additionally, numerous recommendations were made through the public comment process which would substantially change the program and delay implementation if adopted at this time. Therefore, these changes will be incorporated into a notice of proposed rulemaking for further consideration and enhancement of quality control.

RULE

I. General Description

1. Definitions

a. *Family Service Coordination* - case management services which will assist with individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.

b. *Individualized Family Service Plan (IFSP)* - a written plan that is developed jointly by the family and service providers which identifies the necessary services to enhance the development of the child as well as the family's capacity to meet the needs of their child. The IFSP must be based on the multidisciplinary evaluation and assessment of the child and the family's identification of their strengths and needs. The initial IFSP must be developed within 45 days following the referral to the child search coordinator with periodic reviews conducted at least every six months and an annual evaluation to review and revise the IFSP as appropriate.

c. *Multidisciplinary Evaluation (MDE)* - the involvement of two or more disciplines or professions in the provision of integrated and coordinated diagnostic procedures to determine a child's eligibility for early intervention services. The evaluation must include all major developmental areas including cognitive development; physical development including vision, hearing, and communicative development, emotional development; self help skills; the assessment of the child's unique needs; and the family's identification of their strengths and needs as related to enhancing the development of the child.

2. Purpose. To assist eligible recipients in developing skills and knowledge to enable them to access and utilize the medical care, social services, educational and other service delivery systems effectively.

3. Major Components

a. intake;
b. assessments;
c. individualized Family Service Planning;
d. linkage;
e. service implementation/coordination;
f. monitoring;
g. re-evaluation;
h. advocacy;
i. transition.

II. Specific Provider Responsibilities

1. The provider must be approved by Medicaid of Louisiana as having a comprehensive and cost effective plan, adequate expertise, training and resources for delivery of family service coordination services to eligible recipients.

2. The provider must ensure that the enrolled child/family receiving family service coordination services meets the established eligibility criteria.

3. The provider will ensure that the eligible enrolled child/parent(s) of an enrolled child sign a release form which gives consent for other providers to share information and send reports on the enrolled child's progress to the primary family service coordinator before any such information is requested or released.

4. The provider must ensure that Medicaid-funded family service coordination services for eligible recipients are provided by qualified individuals who meet the following licensure, education, experience, training and other requirements:

a. either a Bachelor's/Master's degree in health or human services or related field, with two years experience in a health or human services field, (Master's degree in social work, or special education with certification in noncategorical preschool handicapped or other certified areas with emphasis on infants, toddlers and families may be substituted for the required two years of experience); or

b. a nurse registered and licensed in the state; with

two years experience in pediatric, public health or community nursing; and

c. demonstrated knowledge and skills in providing family service coordination services to this target population; and

d. satisfactory completion of at least 40 hours of family service coordination and related orientation which includes 16 hours of in service training specific to ChildNet approved by Medicaid and ChildNet. A new family service coordinator must receive the minimum 40 hours prior to assuming any family service coordination duties. Certification that the 16 hours of in service training specific to ChildNet has been completed within the past two years will be considered evidence that that portion of the training has been completed.

5. The provider must ensure that each family service coordinator has completed at least 40 hours of approved annual in service education in family service coordination and related areas.

6. The provider must ensure that family service coordinators are supervised by qualified individuals who meet the following licensure, education, experience, training and other requirements:

a. either a Master's degree in social work, and three years experience in social services; or

b. a Bachelor's degree in nursing from an accredited institution and state licensure, and three years experience in pediatric, public health or community nursing; and

c. demonstrated knowledge and skills in providing family service coordination services to this target population; and

d. satisfactory completion of at least 40 hours of family service coordination and related orientation to include 16 hours of in service training specific to ChildNet approved by Medicaid and Childnet. A new family service coordinator supervisor must receive the minimum 40 hours prior to assuming supervision of any family service coordination. Certification that the 16 hours of in service training specific to ChildNet has been completed within the past two years will be considered evidence that that portion of the training has been completed.

7. The provider must ensure that the supervisor-family service coordinator staff ratio does not exceed 1:5 Fulltime Equivalent Staff (FTE's).

8. Upon receipt of a referral for family service coordination, the provider must ensure that an interim family service coordinator is assigned during the multidisciplinary evaluation process until the primary family service coordinator is determined at the IFSP meeting.

The family service coordinator's responsibilities in the multidisciplinary evaluation (MDE) process must include:

a. informing the family of the steps involved in the MDE process; explaining their rights and procedural safeguards and securing their level of desired participation;

b. reviewing relevant medical records and prior evaluations;

c. coordination the performance of evaluations, assessments, and regular preventive health care and immunizations including a KID-MED (EPSDT) medical screening and an examination by a licensed physician to ensure timely completion of the MDE and IFSP;

d. Identifying or coordinating the identification of families' concerns, priorities and resources;

e. Facilitating the development of the IFSP.

9. The family service coordinator's responsibilities in the individualized family service plan (IFSP) must include:

a. convening a meeting to develop the initial IFSP within 45 days of referral;

b. attending the (IFSP) meeting;

c. ensuring that the IFSP meeting is conducted in settings and at times that are convenient to families; in the native language of the family or other mode of communication used by the family. Meeting arrangements must be made with, and written notice provided to family and other participants;

d. ensuring that the following participants provide input and have the opportunity to attend the initial IFSP meetings: the parent(s) of the child, a person or persons directly involved in conducting the evaluations and assessments, as appropriate, persons who will be providing services to the child or family and others;

e. facilitating adherence to federal regulations and the ChildNet State Plan regarding contents and process of IFSP;

f. coordinating a review of the IFSP every six months or more frequently if conditions warrant, or if the family requests, to assure that the contents of the IFSP continue to meet the recipient's needs;

g. coordinating an annual meeting to evaluate the IFSP and, as appropriate, to review its provisions;

h. coordinating and facilitating access to needed services, resources or supports as indicated on the IFSP;

i. training and supporting the enrolled child/family in the use of support, resources and services identified in the IFSP;

j. providing, or informing the families of the availability of consumer advocacy services so that the eligible recipient receives the benefit of services available by negotiating with providers;

k. monitoring service delivery in order to assess the progress and quality of services and ensuring that services are being provided in accordance with the IFSP;

l. Assisting the enrolled child/family in maintaining the services, resources and supports that are currently being provided;

m. facilitate the development of a transition plan to pre-school services, and other services that may be appropriate, including Head Start.

10. The provider must ensure that only one individual who is an employee of the enrolled family service coordinator provider and is qualified to provide family service coordination services serves as the primary family service coordinator for each enrolled child. The family service coordinator must be determined at the IFSP meeting with concurrence of the family. The family service coordinator should be chosen from a profession which is most relevant to the enrolled child and family's needs or who is otherwise qualified to carry out all applicable responsibilities as identified in the IFSP. The provider must agree to abide by this decision. The enrolled child may request a change in the family service coordinator at any time. Such requests must be promptly carried out by the provider to ensure the enrolled child freedom of choice of providers.

11. The provider is prohibited from billing Medicaid for provision of family service coordination provided by another provider.

12. The provider must ensure that appropriate professional consultation is available to each family service coordi-

nator at all times. Consultation services may be provided by qualified professionals who are employed by or are on contract with the provider.

13. The provider must ensure that each enrolled child receives a KID-MED (EPSDT) medical screening and all childhood immunizations in accordance with the periodicity schedule at under one month, two months, four months, six months, nine months, 12 months, 15 months, 18 months, and 2 years. In addition, the provider must ensure that the family understands the benefits of preventive health care including childhood immunizations for their infant, toddler and siblings and how to receive KID-MED (EPSDT) services for their children.

14. The provider must ensure that each family receives information regarding the WIC Program including where and how to apply for it and is referred immediately for participation in the WIC Program.

15. The provider must ensure that the maximum monthly caseload of recipients (Medicaid and non-Medicaid) does not exceed 35 cases per full-time equivalent (40 hours per week) family service coordinator. The provider must ensure that the maximum monthly caseload does not exceed 13 cases per half-time equivalent. The maximum caseload for a family service coordinator working fewer than 20 hours a week must be determined according to the above ratios.

16. The provider must ensure that the family service coordinator contacts the enrolled child/family as often as is necessary to carry out the Individualized Family Service Plan (IFSP), including at least one home visit within the first 30 days, telephone contact at least once per month and a face to face contact every 90 days minimum.

17. The provider must agree to permit Medicaid of Louisiana to determine the efficacy of the services and program established and the Medicaid funds expended under this program. The provider shall provide to Medicaid of Louisiana, its authorized representatives, representatives of the Department of Health and Human Services (DHHS) and/or the State Attorney General's Medicaid Fraud Control Unit such information and data as Medicaid may from time to time require or request, such information to be provided in the form and manner as may be prescribed by Medicaid of Louisiana.

18. The provider must notify Medicaid of Louisiana in writing, if it is unable to provide the family service coordination services in accordance with established policies and procedures. Failure to adhere to the requirements set forth herein shall constitute grounds for termination of the provider agreement and recoupment.

19. Documentation. The provider must ensure that the family service coordinator maintains adequate documentation in a separate enrolled child service coordinator record which includes but is not limited to:

a. documentation of eligibility according to criteria established for Louisiana early intervention services;

b. documentation of the enrolled child's voluntary agreement to participate in the program as evidenced by the family's signature on appropriate program forms;

c. documentation of a multidisciplinary evaluation of the enrolled child's needs, including: information on the child's history, including an assessment of barriers to adequate service acquisition and special problems; need for referral to other public or private agencies; and the need for medical, mental health, nutritional, educational, rehabilitation or day care services. This assessment or evaluation must be reflected in the individual family service plan;

d. an individual family service plan which identifies the enrolled child's specific needs and sets measurable outcomes relating to meeting his/her needs, which is agreed to by the IFSP committee members including the family as evidenced by their signatures on the form(s) approved by Medicaid of Louisiana;

e. progress notes to include description of the initial meeting of the family service coordinator with the eligible family, the home or alternate site visit (if alternate site is chosen, the reason must also be recorded) and information/assessment derived from this visit, results of contacts with or on behalf of the eligible recipient. Contact activity logs must specify the date and location of the contact, the individual contacted, the purpose of the contact, and the results of the contact. Progress notes must also address how the enrolled child is progressing toward the goals set in the individual family service plan. Progress notes must be summarized at least on a monthly basis. The contact activity log must be updated weekly.

f. copies of required evaluations as specified by the multidisciplinary evaluations or in the IFSP.

g. a release form signed by the enrolled child/family giving permission to treating providers to send reports on his/her progress to the primary family service coordinator;

h. copies of reports from providers to whom the recipient was referred. Documentation of referrals/appointments made and kept by the family.

III. Reimbursement and Recoupment

1. Providers of family service coordination services will be reimbursed using a prospective negotiated fee for each type of case management service based on allowable cost.

2. Medicaid of Louisiana may recoup payments made on claims when all appropriate requirements are not timely and documented.

3. Re-evaluate the appropriateness of fees which are based on allowable costs and efficient and economic use of resources by the provider. Providers must submit annual cost reports in a timely manner within 90 days of the end of the fiscal year.

4. Each enrolled child shall be limited to 245 units of service per calendar year, unless approval is granted by Medicaid for a specified number of additional units based on a documented need for more intensive services. Services shall be provided in 15 minute units. The Medicaid of Louisiana/ Medical Services Manual entitled Case Management Services, Chapter 4, provides detailed information on units, specifically:

5 - 22 minutes = 15 minutes (1 unit)
23 - 37 minutes = 30 minutes (2 units)
38 - 52 minutes = 45 minutes (3 units)
53 - 67 minutes = 1 hour (4 units)

Regulatory Exception

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

J. Christopher Pilley
Secretary

RULE

Department of Natural Resources
Office of Conservation

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby adopts the following amendments to the Drug Testing regulations.

Title 43
NATURAL RESOURCES
Part XIII. Office of Conservation - Pipeline Safety
Subpart 1. General Provisions

Chapter 31. Drug Testing

§3101. Scope and Compliance

* * *

D. This Chapter is not effective until January 2, 1993, with respect to any employee located outside the territory of the United States.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:532 (June 1990), amended LR 18: (August 1992).

§3103. Definitions

* * *

Employee means a person who performs on a pipeline or LNG facility an operating, maintenance, or emergency-response function regulation by CFR Part 192, 193, or 195. This does not include persons who work in production, refining, chemical processing, or manufacturing facilities, or on storage or inplant piping systems associated with such facilities, clerical, truck driving, accounting, or other functions not subject to CFR Part 192, 193, or 195. The person may be employed by the opeator, be a contractor engaged by the operator, or be employed by such a contractor.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:532 (June 1990), amended LR 18: (August 1992).

§3107. Anti-Drug Plan

Each operator shall maintain and follow a written anti-drug plan that conforms to the requirements of this Chapter. The plan must contain:

1. methods and procedures for compliance with all the requirements of this Chapter, including the employee assistance program;

2. the administrator or the state agency that has submitted certification under Section 5(a) of the Natural Gas Pipeline Safety Act or Section 205(a) of the Hazardous Liquid Pipeline Safety Act with respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant state procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety;

3. the name and address of the operator's medical review officer; and

4. procedures for notifying employees of the coverage and provisions of the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:134 (February 1990), repromulgated LR 16:533 (June 1990), amended LR 18: (August 1992).

H.W. Thompson
Commissioner of Conservation

RULE

Department of Natural Resources
Office of Conservation

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation has adopted the following amendments to the natural gas pipeline safety rules of procedure reenacted and adopted by the commissioner of conservation as being reasonably necessary to protect the public interest and to carry out the provisions of the laws of this state.

Title 43
NATURAL RESOURCES
Part XIII. Office of Conservation: Pipeline Safety
Subpart 1. General Provisions

Chapter 1. General

§101. Applicability

A. This regulation shall apply to all persons engaged in the transportation of gas by pipeline within the state of Louisiana, including the transportation of gas within the coastal zone limits as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

B. ...

1. offshore gathering of gas upstream from the outlet flange of each facility in the coastal zone area where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream except as provided in §2712 for gathering of gas within inlets of the Gulf of Mexico; and

2. ...

a. ...

b. any designated residential or commercial area such as a subdivision, business or shopping center, or community development;

C-D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), amended LR 18: (August 1992).

§125. Definitions

Business District means:

1. any commercial area such as a business center or shopping center;

2. any other area so designated by the commissioner.

Commissioner—the Commissioner of Conservation or any person to whom he has delegated authority in the matter concerned.

Distribution Line—a pipeline other than a gathering or transmission line.

Exposed Pipeline—a pipeline where the top of the pipe is protruding above the seabed in water less than 15 feet deep, as measured from the mean low water.

Gas—natural gas, flammable gas, or gas which is toxic or corrosive.

Gathering Line—a pipeline that transports gas from a current production facility to a transmission line or main.

Gulf of Mexico and its Inlets—the waters from the mean high water mark of the coast of the Gulf of Mexico and its inlets open to the sea (excluding river, tidal marshes, lakes, and canals) seaward to include the territorial sea and Outer Continental Shelf to a depth of 15 feet, as measured from the mean low water.

Hazard to Navigation—for the purpose of this Part, a pipeline where the top of the pipe is less than 12 inches below the seabed in water less than 15 feet deep, as measured from the mean low water.

High Pressure Distribution System—a distribution system in which the gas pressure in the main is higher than the pressure provided to the customer.

Listed Specification—a specification listed in Subsection I of Appendix B of the federal pipeline safety regulations.

Low-Pressure Distribution System—a distribution system in which the gas pressure in the main is substantially the same as the pressure provided to the customer.

Main—a distribution line that serves as a common source of supply for at least one service line.

Master Meter System—a system for distributing gas where the operator receives or purchases gas from an outside source and distributes the gas through a pipeline system to more than one outlet beyond the meter or regulator, which ultimate outlet may, but need not be, individually metered or charged a fee for the gas; excluding, however, any gas distribution system serving a single family residence and associated outbuildings and which is operated by the owner or gas purchaser solely for his own consumption.

Maximum Actual Operating Pressure—the maximum pressure that occurs during normal operations over a period of one year.

Maximum Allowable Operating Pressure (MAOP)—the maximum pressure at which a pipeline or segment of a pipeline may be operated under this Part.

Municipality—a city, parish, or any other political subdivision of Louisiana.

Natural Gas Distribution System—a company, municipality, or political subdivision that purchases or receives natural gas, and through its own intrastate pipeline system, distributes natural gas to end users in Louisiana such as residential, commercial, industrial, and wholesale customers, and shall include master meter systems.

Non Rural Area means:

1. an area within the limits of any incorporated city, town, or village;

2. any designated residential or commercial area such as a subdivision, business or shopping center, or community development;

3. any Class 3 or 4 location as defined in §501; or

4. any other area so designated by the commissioner.

Offshore—beyond the line or ordinary low water along that portion of the coast of the United States that is in direct contact with the open seas and beyond the line marking the seaward limit of inland waters.

Operator—a person who engages in the transportation of gas.

Person—any individual, firm, joint venture, partnership, corporation, association, state municipality, cooperative association, or joint stock association, and including any trustee, receiver, assignee, or personal representative thereof.

Pipe—any pipe or tubing used in the transportation of gas, including pipe-type holders.

Pipeline—all parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders and fabricated assemblies.

Pipeline Facility—new and existing pipelines, rights-of-way, and any equipment, facility or building used in the transportation of gas or in the treatment of gas during the course of transportation.

Production Facility—piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation or treating of petroleum or carbon dioxide, or associated storage or measurement. (To be a production facility under this definition, piping or equipment must be used in the process of extracting petroleum or carbon dioxide from the ground or from facilities where CO_2 is produced, and preparing it for transportation by pipeline. This includes piping between treatment plants which extract carbon dioxide, and facilities utilized for the injection or carbon dioxide for recovery operations.)

Secretary—the Secretary of Transportation of the United States of America or any person to whom he has delegated authority in the matter concerned.

Service Line—a distribution line that transports gas from a common source of supply to:

1. a customer meter or the connection to a customer's pipeline, whichever is farther down stream; or

2. the connection to a customer's piping if there is no customer meter. A customer meter is the meter that measures the transfer of gas from an operator to a consumer.

SMYS—specified minimum yield strength is

1. for steel pipe manufactured in accordance with a listed specification, the yield strength specified as a minimum in the specification; or

2. for steel pipe manufactured in accordance with an unknown or unlisted specification, the yield strength determined in accordance with §905.C.2.

State—the state of Louisiana.

System—all pipeline facilities used by a particular operator in the transportation of gas, including but not limited to, line pipe, valves and other appurtenances connected to line pipe, compressor units, fabricated assemblies associated with compressor units, metering (including customer's meters) and delivery stations, and fabricated assemblies in metering and delivery stations.

Test Failure—a break or rupture that occurs during strength-proof testing of transmission or gathering lines that is of such magnitude as to repair before continuation of the test.

Transmission Line—a pipeline, other than a gathering line, that:

1. transports gas from a gathering line or storage distribution center or storage facility;

2. operates at a hoop stress of 20 percent or more of SMYS; or

3. transports gas within a storage field.

Transportation of Gas—the gathering, transmission, or distribution of gas by pipeline or the storage of gas.

AUTHORITY NOTE: Promulgated in accordance with R.S 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984); amended LR 18: (August 1992).

Chapter 3. Reporting of Incidents, Safety-Related Conditions, and Annual Reports

§301. Scope

A. - B. ...

1. offshore gathering of gas upstream from the outlet flange of each facility in the coastal zone area where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream except as provided in §2712 for gathering of gas within inlets of the Gulf of Mexico; or

2. ...

a. ...

b. any designated residential or commercial area such as a subdivision, business or shopping center, or community development;

AUTHORITY NOTE: Promulgated in accordance with R.S 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:254 (March 1985), amended LR 18: (August 1992).

§303. Definitions

A. As used in Part XIII and the RSPA Forms referenced in this Part:

1. *Incident*—any of the following events:

a. an event that involves a release of gas from a pipeline or of liquefied natural gas or gas from an LNG facility and...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:254 (March 1985), amended LR 18: (August 1992).

§323. Filing Safety-Related Condition Reports

A. ...

B. The report must be headed "Safety-Related Condition Report" and provide the following information:

1-5. ...

6. location of condition, with reference to the state (and town, city, or country) or offshore site, and as appropriate, nearest street address, offshore platform, survey station number, milepost, landmark, or name of pipeline;

7. description of the condition, including circumstances leading to its discovery, any significant effects of the condition on safety, and the name of the commodity transported or stored;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:254 (March 1985), amended LR 18: (August 1992).

§325. Filing Offshore Pipeline Condition Reports

A. Each operator shall, within 60 days after completion of the inspection of all its underwater pipelines subject to §2712.A, report the following information:

1. name and principal address of operator;

2. date of report;

3. name, job title, and business telephone number of person submitting the report;

4. total number of miles of pipeline inspected;

5. length and date of installation of each exposed pipeline segment, and location, including, if available, the location according to the Minerals Management Service or state offshore area and block number tract; and

6. length and date of installation of each pipeline segment, if different from a pipeline segment identified under §325.A.5, that is a hazard to navigation, and the location, including, if available, the location according to the Minerals Management Service or state offshore area and block number tract.

B. The report shall be mailed to the Commissioner of Conservation, Office of Conservation, Box 94275, Baton Rouge, LA 70804-9275.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 18: (August 1992).

Chapter 7. Qualification of Pipe

§707. Cast Iron or Ductile Iron Pipe

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), repealed LR 18: (August 1992).

§711. Copper Pipe

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), repealed LR 18: (August 1992).

§713. Marking of Materials

A. Except as provided in §713.D, each valve, fitting, length of pipe, and other component must be marked:

1. as prescribed in the specification or standard to which it was manufactured; or

2. to indicate size, material, manufacturer, pressure rating, and temperature rating, and as appropriate, type, grade, and model.

B. Surfaces of pipe and components that are subject to stress from internal pressure may not be field die stamped.

C. If any item is marked by die stamping, the die must have blunt or rounded edges that will minimize stress concentrations.

D. §713.A does not apply to items manufactured before November 12, 1970, that meet all of the following:

1. the item is identifiable as to type, manufacturer, and model;

2. specifications or standards giving pressure, temperature, and other appropriate criteria for the use of items are readily available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), amended LR 18: (August 1992).

Chapter 9. Pipe Design

§911. Longitudinal Joint Factor (E) for Steel Pipe

The longitudinal factor to be used in the design formula in §905 is determined in accordance with the following table:

Specification	Pipe Class	Longitudinal Joint Factor (E)
ASTM A 53	Seamless	1.00
	Electric resistance welded	1.00
	Furnace butt welded	.60
ASTM A 106	Seamless	1.00
ASTM A 333	Seamless	1.00
	Electric resistance welded	1.00
ASTM A 381	Double submerged arc welded	1.00
ASTM A 671	Electric fusion welded	1.00
ASTM A 672	Electric fusion welded	1.00
ASTM A 691	Electric fusion welded	1.00
API 5 L	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00
	Furnace butt welded	.60
Other	Pipe over four inches	.80
Other	Pipe four inches or less	.60

If the type of longitudinal joint cannot be determined, the joint factor to be used must not exceed that designated for "Other."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), amended LR 18: (August 1992).

§915. Design of Cast Iron Pipe

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), repealed LR 18: (August 1992).

§917. Design of Plastic Pipe

The design pressure for plastic pipe is determined in accordance with the following formula, subject to the limitations of §919:

$$P = 2S \frac{t}{(D-t)} X0.32$$

P = Design pressure, gage, kPa (psi).

S = For thermoplastic pipe the long-term hydrostatic strength determined in accordance with the listed specification at a temperature equal to 23°C (73°F), 38°C (100°F), 49°C (120°F), or 60°C (140°F); for reinforced thermosetting plastic pipe, 75,800 kPa (11,000 psi).

t = Specified wall thickness, mm (in.)

D = Specified outside diameter, mm (in.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), amended LR 18: (August 1992).

§921. Design of Copper Pipe

A. Copper pipe used in mains must have a minimum wall thickness of 0.065 inches and must be hard drawn.

B. Copper pipe used in service lines must have wall thickness not less than that indicated in the following table.

Standard Size (inch)	Nominal O.D. (inch)	Wall Thickness (inch) Nominal	Tolerance
1/2	.625	.040	.0035
5/8	.750	.042	.0035
3/4	.875	.045	.004
1	1.125	.050	.004
1-1/4	1.375	.055	.0045
1-1/2	1.625	.060	.0045

C. Copper pipe used in mains and service lines may not be used at pressures in excess of 100 p.s.i.g.

D. Copper pipe that does not have an internal corrosion resistant lining may not be used to carry gas that has an average hydrogen sulfide content of more than 0.3 grains per 100 standard cubic feet of gas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), amended LR 18: (August 1992).

Chapter 11. Pipeline Design Requirements

§1107. Valves

A. Except for cast iron and plastic valves, each valve must meet the minimum requirements, or equivalent, of API 6D. A valve may not be used under operating conditions that exceed the applicable pressure-temperature ratings contained in those requirements.

B. Each cast iron and plastic valve must comply with the following:

1. the valve must have a maximum service pressure rating for temperatures that equal or exceed the maximum service temperature;

2. the valve must be tested as part of the manufacturing, as follows:

a. with the valve in the fully open position, the shell must be tested with no leakage to a pressure at least 1.5 times the maximum service rating.

b. after the shell test, the seat must be tested to a pressure no less than 1.5 times the maximum service pressure rating. Except for swing check valves, test pressure during the seat test must be applied successively on each side of the closed valve with the opposite side open. No visible leakage is permitted.

c. after the last pressure test is completed, the valve must be operated through its full travel to demonstrate freedom from interference.

C. Each valve must be able to meet the anticipated operating conditions.

D. No valve having shell components made of ductile iron may be used at pressures exceeding 80 percent of the pressure ratings for comparable steel valves at their listed temperature. However, a valve having shell components made of ductile iron may be used at pressures up to 80 percent of the pressure ratings for comparable steel valves at their listed temperature, if:

1. the temperature-adjusted service pressure does not exceed 1,000 p.s.i.g.; and

2. welding is not used on any ductile iron component in the fabrication of the valve shells or their assembly.

E. No valve having pressure containing parts made of ductile iron may be used in the gas pipe components of compressor stations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), amended LR 18: (August 1992).

§1109. Flanges and Flange Accessories

A. Each flange or flange accessory (other than cast iron) must meet the minimum requirements or ANSI B16.5, MSS SP-44, or the equivalent.

B. Each flange assembly must be able to withstand the maximum pressure at which the pipeline is to be operated and to maintain its physical and chemical properties at any temperature to which it is anticipated that it might be subjected in service.

C. Each flange on a flanged joint in cast iron pipe must conform in dimensions, drilling, face and gasket design to ANSI B16.1 and be cast integrally with the pipe, valve, or fitting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984); amended LR 18: (August 1992).

§1139. Additional Provisions for Bottle-Type Holders

A. Each bottle-type holder must be:

1. located on a site entirely surrounded by fencing that prevents access by unauthorized persons and with minimum clearance from the fence as follows:

Maximum Allowable Operating Pressure	Minimum Clearance (Feet)
Less than 1,000 p s.i.g.	25
1,000 p s.i.g. or more	100

2. designed using the design factors set forth in §909; and

3. buried with a minimum cover in accordance with §1727.

B. Each bottle-type holder manufactured from steel that is not weldable under field conditions must comply with the following:

1. a bottle-type holder made from alloy steel must meet the chemical and tensile requirements for the various grades of steel in ASTM A 372.

2. the actual yield-tensile ratio of the steel may not exceed 0.85.

3. welding may not be performed on the holder after it has been heat treated or stress relieved, except that copper wires may be attached to the small diameter portion of the bottle end closure for cathodic protection if a localized thermit welding process is used.

4. the holder must be given a mill hydrostatic test at a pressure that produces a hoop stress at least equal to 85 percent of the SMYS.

5. the holder, connection pipe, and components must be leak tested after installation as required by §2141 through §2313.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), amended LR 18: (August 1992).

§1159. Control of the Pressure of Gas Delivered from the High-Pressure Distribution Systems

A. - C. ...

1. a service regulator having the characteristics listed in §1159.A, and another regulator located upstream from the service regulator. The upstream regulator may not be set to maintain a pressure higher than 60 p.s.i.g. A device must be installed between the upstream regulator and the service regulator to limit the pressure on the inlet of the service regulator to 60 p.s.i.g. or less in case the upstream regulator fails to function properly. This device may be either a relief valve or an automatic shutoff that shuts, if the pressure on the inlet of the service regulator exceeds the set pressure (60 p.s.i.g. or less), and remains closed until manually reset.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), amended LR 18: (August 1992).

Chapter 15. Pipe Joining Requirements

§1505. Cast Iron Pipe

A. Each caulked bell and spigot joint in cast iron pipe must be sealed with mechanical leak clamps.

B. Each mechanical joint in cat iron pipe must have a gasket made of a resilient material as the sealing medium. Each gasket must be suitably confined and retained under compression by a separate gland or follower ring.

C. Cast iron pipe may not be joined by threaded joints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), amended LR 18: (August 1992).

§1507. Ductile Iron Pipe

A. Ductile iron pipe may not be joined by threaded joints.

B. Ductile iron pipe may not be joined by brazing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), amended LR 18: (August 1992).

§1508. Copper Pipe

Copper pipe may not be threaded except that copper pipe used for joining screw fittings or valves may be threaded

if the wall thickness is equivalent to the comparable size of Schedule 40 or heavier wall pipe listed in Table C1 of ANSI B16.5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), amended LR 18: (August 1992).

Chapter 17. Transmission Line Construction

§1709. Repair of Steel Pipe

A. - D. ...

E. A gouge, groove, arc burn, or dent may not be repaired by insert patching or by pounding out.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), amended LR 18: (August 1992).

Chapter 25. MAOP Requirements

§2505. Uprating: Steel Pipelines to a Pressure that Produce a Hoop Stress Less Than 30 Percent of SMYS: Plastic, Cast Iron, and Ductile Iron Pipelines

A. Unless the requirements of this Section have been met, no person may subject:

1. a segment of steel pipeline to an operating pressure that will produce a hoop stress less than 30 percent of SMYS and that is above the previously established maximum allowable operating pressure; or

2. a plastic, cast iron, or ductile iron pipeline segment to an operating pressure that is above the previously established maximum allowable operating pressure.

B. Before increasing operating pressure above the previously established maximum allowable operating pressure, the operator shall:

1. review the design, operating, and maintenance history of the segment of pipeline;

2. make a leakage survey (if it has been more than one year since the last survey) and repair any leaks that are found, except that a leak determined not to be potentially hazardous need not be repaired, if it is monitored during the pressure increase and it does not become potentially hazardous;

3. make any repairs, replacements, or alterations in the segment of pipeline that are necessary for safe operation at the increased pressure;

4. reinforce or anchor offsets, bends and dead ends in pipe joined by compression couplings or bell spigot joints to prevent failure of the pipe joint, if the offset, bend, or dead end is exposed in an excavation;

5. isolate the segment of pipeline in which the pressure is to be increased from any adjacent segment that will continue to be operated at a lower pressure; and

6. if the pressure in mains or service lines, or both, is to be higher than the pressure delivered to the customer, install a service regulator on each service line and test each regulator to determine that it is functioning. Pressure may be increased as necessary to test each regulator, after a regulator has been installed on each pipeline subject to the increased pressure.

C. After complying with §2505.B, the increase in maximum allowable operating pressure must be made in increments that are equal to 10 p.s.i.g. or 25 percent of the total pressure increase, whichever produces the fewer number of increments. Whenever the requirements of LAC §2505.B.6 apply, there must be at least two approximately equal incremental increases.

D. If records for cast iron or ductile iron pipeline facilities are not complete enough to determine stresses produced by internal pressure, trench loading, rolling loads, beam stresses, and other bending loads, in evaluating the level of safety of the pipeline when operating at the proposed increased pressure, the following procedures must be followed:

1. in estimating the stress, if the original laying conditions cannot be ascertained, the operator shall assume that cast iron pipe was supported on blocks with tamped backfill and that ductile iron pipe was laid without blocks with tamped backfill;

2. unless the actual maximum cover depth is known, the operator shall measure the actual cover in at least three places where the cover is most likely to be greatest and shall use the greatest cover measured;

3. unless the actual nominal wall thickness is known, the operator shall determine the wall thickness by cutting and measuring coupons from at least three separate pipe lengths. The coupons must be cut from pipe lengths in areas where the cover depth is most likely to be the greatest. The average of all measurements taken must be increased by the allowance indicated in the following table;

Pipe Size (inches)	Allowance (inches)		
	Cast iron pipe		
	Pit cast Pipe	Centrifugally cast pipe	Ductile iron pipe
3 to 8	0.075	0.065	0.065
10 to 12	0.08	0.07	0.07
14 to 24	0.08	0.08	0.075
30 to 42	0.09	0.09	0.075
48	0.09	0.09	0.08
54 to 60	0.09	....	....

4. for cast iron pipe, unless the pipe manufacturing process is known, the operator shall assume that the pipe is pit cast pipe with a bursting tensile strength of 11,000 p.s.i. and a modulus of rupture of 31,000 p.s.i.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), amended LR 18: (August 1992).

Chapter 27. General Operating Requirements

§2703. General Provisions

A. - B. ...

C. The administrator or the state agency that has submitted a current certification under Section 5(a) of the Natural Gas Pipeline Safety Act with respect to the pipeline facility governed by an operator's plans and procedures may, after

notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant state procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), amended LR 18: (August 1992).

§2711. Change in Class Location: Confirmation or Revision of Maximum Allowable Operating Pressure

A. If the hoop stress corresponding to the established maximum allowable operating pressure of a segment of pipeline is not commensurate with the present class location, and the segment is in satisfactory physical condition, the maximum allowable operating pressure of that segment or pipeline must be confirmed or revised according to one of the following requirements:

1. if the segment involved has been previously tested in place for a period of not less than eight hours, the maximum allowable operating pressure is 0.8 times the test pressure in Class 2 locations, 0.667 times the test pressure in Class 3 locations, or 0.555 times the test pressure in Class 4 locations. The corresponding hoop stress may not exceed 72 percent of the SMYS of the pipe in Class 2 locations, 60 percent of SMYS in Class 3 locations, or 50 percent of SMYS in Class 4 locations;

2. the maximum allowable operating pressure of the segment involved must be reduced so that the corresponding hoop stress is not more than that allowed by this Part for new segments of pipelines in the existing class location;

3. the segment involved must be tested in accordance with the applicable requirements of Chapter 23 of this Part, and its maximum allowable operating pressure must then be established according to the following criteria:

a. the maximum allowable operating pressure after the requalification test is 0.8 times the test pressure for Class 2 locations, 0.667 times the test pressure for Class 3 locations, and 0.555 times the test pressure for Class 4 locations;

b. the maximum allowable operating pressure confirmed or revised in accordance with this Section, may not exceed the maximum allowable operating pressure established before the confirmation or revision;

c. the corresponding hoop stress may not exceed 72 percent of the SMYS of the pipe in Class 2 locations, 60 percent of SMYS in Class 3 locations, or 50 percent of SMYS in Class 4 locations.

B. Confirmation or revision of the maximum allowable operating pressure of a segment of pipeline in accordance with this Section does not preclude the application of §2503 through §2505.

C. Confirmation or revision of the maximum allowable operating pressure that is required as a result of a study under §2709 must be completed within 18 months of the change in class location. Pressure reduction under §2711.A.1 or §2711.A.2 within the 18-month period does not preclude establishing a maximum allowable operating pressure under §2711.A.3 at a later date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), amended LR 18: (August 1992).

§2712. Underwater Inspection and Reburial of Pipelines in the Gulf of Mexico and its Inlets

A. Each operator shall, in accordance with this Section, conduct an underwater inspection of its pipelines in the Gulf of Mexico and its inlets. The inspection must be conducted after October 3, 1989 and before November 16, 1992.

B. If, as a result of an inspection under §2712.A, or upon notification by any person, an operator discovers that a pipeline it operates is exposed on the seabed or constitutes a hazard to navigation, the operator shall:

1. promptly, but not later than 24 hours after discovery, notify the National Response Center, telephone: 800-424-8802 of the location, and, if available, the geographic coordinates of that pipeline;

2. promptly, but not later than seven days after discovery, mark the location of the pipeline in accordance with 33 CFR Part 64 at the ends of the pipeline segment and at intervals of not over 500 yards long, except that a pipeline segment less than 200 yards long need only be marked at the center; and

3. within six months after discovery, or not later than November 1 of the following year if the six month period is later than November 1 of the year the discovery is made, place the pipeline so that the top of the pipe is 36 inches below the seabed for normal excavation or 18 inches or rock excavation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 18: (August 1992).

Appendix A - Incorporated by Reference

I. List of Organizations and Address

A. American National Standards Institute (ANSI), 1430 Broadway, New York, N.Y. 10018.

B. American Petroleum Institute (API), 1801 K Street N.W., Washington D.C. 20006 or 300 Corrigan Tower Building, Dallas, Texas 75201.

C. The American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, N.Y. 10017.

D. American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.

E. Manufacturers Standardization Society of the Valve and Fittings Industry (MSS), 5203 Leesburg Pike, Suite 502, Falls Church, VA 22041.

F. National Fire Protection Association (NFPA), Batterymarch Park, Quincy, Massachusetts 02269.

II. Documents Incorporated by Reference. Numbers in parentheses indicate applicable editions

A. American Petroleum Institute:

1. Reserved

2. Reserved

3. API Specification 6D "API Specification for Pipeline Valves" (1977).

4. API Specification 5L "-API Specification for Line Pipe" (1988).

5. Reserved

6. Reserved

7. API Recommended Practice 5LI "API Recommended Practice for Railroad Transportation of Line Pipe" (1972).

8. API Standard 1104 "Standard for Welding Pipelines and Related Facilities" (17th edition, 1988).

B. The American Society for Testing and Materials:

1. ASTM Specification A53 "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless" (A53-79).

2. ASTM Specification A106 "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (A106-79b).

3. ASTM Specification A671 "Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures" (A671-77).

4. ASTM Specification A672 "Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures" (A672-79).

5. ASTM Specification A691 "Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures" (A691-79).

6. ASTM Specification A333 "Standard Specification for Seamless and Welded Steel Pipe for Low Temperature Service" (A333-79).

7. ASTM Specification A372 "Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels" (A372-78).

8. ASTM Specification A381 "Standard Specification for Metal-Arc-Welded Steel Pipe for use with High-Pressure Transmission Systems" (A381-79).

9. ASTM Specification D638 "Standard Test Method for Tensile Properties of Plastic" (D638-77a).

10. ASTM Specification D2513 "Standard Specification for Thermoplastic Gas Pressure Pipe Tubing and Fittings" (D2513-87).

11. ASTM Specification D2517 "Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings" (D2517-73) (Reapproved 1979).

C. The American National Standards Institute, Inc.:

1. ANSI B16.1 "Cast-Iron Pipe Flanges and Flanged Fittings" (1975).

2. ANSI B16.5 "Steel Pipe Flanges and Flanged Fittings" (1977).

D. The American Society of Mechanical Engineers:

ASME Boiler and Pressure Vessel Code, Section VIII "Pressure Vessels Division 1" (1977).

2. ASME Boiler and Pressure Vessel Code, Section IX "Welding Qualifications" (1977).

E. Manufacturer's Standardization Society of the Valve and Fittings Industry:

1. MSS SP-44 "Steel Pipe Line Flanges": (1975).

F. National Fire Protection Association:

1. NFPA Standard 30 "Flammable and Combustible Liquids Code" (1977).

2. NFPA Standard 58 "Standard for the Storage and Handling of Liquefied Petroleum Gases" (1979).

3. NFPA Standard 59 "Standard for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants" (1979).

4. NFPA Standard 59A "Storage and Handling Liquefied Natural Gas" (1979).

5. "National Electrical Code" NFPA-70 (ANSI) (1978).

Appendix B - Qualification of Pipe

I. Listed Pipe Specifications

Numbers in parentheses indicate applicable editions.

API 5L--Steel pipe (1988).

ASTM A53--Steel pipe (1979).

ASTM A106--Steel pipe (1979).

ASTM A333--Steel pipe (1979).

ASTM A381--Steel pipe (1979).

ASTM A539--Steel tubing (1979).

ASTM Specification A671--Steel pipe (1977).

ASTM Specification A672--Steel pipe (1979).

ASTM A691--Steel pipe (1979).

ASTM D2513--Thermoplastic pipe and tubing (1987).

ASTM D2517--Thermosetting plastic pipe and tubing (1973).

II. Steel Pipe of Unknown or Unlisted Specification

A. Bending properties. For pipe two inches or less in diameter, a length of pipe must be cold bent through at least 90 degrees around a cylindrical mandrel that has a diameter 12 times the diameter of the pipe, without developing cracks at any portion and without opening the longitudinal weld; for pipe more than two inches in diameter, the pipe must meet the requirements of the flattening tests set forth in ASTM A53, except that the number of tests must be at least equal to the minimum required in Paragraph II-D of this Appendix to determine yield strength.

B. Weldability. A girth weld must be made in the pipe by a welder who is qualified under Chapter 13 of this Part. The weld must be made under the most severe conditions under which welding will be allowed in the field and by means of the same procedure that will be used in the field. On pipe more than four inches in diameter, at least one test weld must be made for each 100 lengths of pipe. On pipe four inches or less in diameter, at least one test weld must be made for each 400 lengths of pipe. The weld must be tested in accordance with API Standard 1104. If the requirements of API Standard 1104 cannot be met, weldability may be established by making chemical tests for carbon and manganese, and proceeding in accordance with Section IX of the ASME Boiler and Pressure Vessel Code. The same number of chemical tests must be made as are required for testing a girth weld.

C. Inspection. The pipe must be clean enough to permit adequate inspection. It must be visually inspected to ensure that it is reasonably round and straight and there are no defects which might impair the strength or tightness of the pipe.

D. Tensile properties. If the tensile properties of the pipe are not known, the minimum yield strength may be taken as 24,000 p.s.i. or less, or the tensile properties may be established by performing tensile tests as set forth in API Specification 5L. All test specimens shall be selected at random and the following number of tests must be performed:

Number of Tensile Tests--All Sizes

10 lengths or less	1 set of tests for each length.
11 to 100 lengths	1 set of tests for each 5 lengths, but not less than 10.
Over 100 lengths test	1 set of tests for each 10 lengths, but not less than 20.

If the yield-tensile ratio, based on the properties determined by those tests, exceeds 0.85, the pipe may be used only as provided in LAC 43:XIII.705.C.

III. Steel pipe manufactured before November 12, 1970, to earlier editions of listed specifications. Steel pipe manufactured before November 12, 1970, in accordance with a specification of which a later edition is listed in Section

I of this Appendix, is qualified for use under this Part if the following requirements are met:

A. Inspection. The pipe must be clean enough to permit adequate inspection. It must be visually inspected to ensure that it is reasonably round and straight and that there are no defects which might impair the strength or tightness of the pipe.

B. Similarity of specification requirements. The edition of the listed specification under which the pipe was manufactured must have substantially the same requirements with respect to the following properties as a later edition of that specification listed in Section I of this Appendix:

1. physical (mechanical) properties of pipe, including yield and tensile strength, elongation, and yield to tensile ratio, and testing requirements to verify those properties;

2. chemical properties of pipe and testing requirements to verify those properties.

C. Inspection or test of welded pipe. On pipe with welded seams, one of the following requirements must be met:

1. The edition of the listed specification to which the pipe was manufactured must have substantially the same requirements with respect to nondestructive inspection of welded seams and the standards for acceptance or rejection and repair as a later edition of the specification listed in Section I of this Appendix.

2. The pipe must be tested in accordance with Chapter 23 of this Part to at least 1.25 times the maximum allowable operating pressure if it is to be installed in a class 1 location and to at least 1.5 times the maximum allowable operating pressure if it is to be installed in a class 2, 3, or 4 location. Notwithstanding any shorter time period permitted under Chapter 23 of this Part, the test pressure must be maintained for at least eight hours.

Appendix C--Qualification of Welders for Low Stress Level Pipe

I. Basic Test

The test is made on pipe 12 inches or less in diameter. The test weld must be made with the pipe in a horizontal fixed position so that the test weld includes at least one section of overhead position welding. The beveling, root opening, and other details must conform to the specifications or the procedure under which the welder is being qualified. Upon completion, the test weld is cut into four coupons and subjected to a root bend test. If, as a result of this test, two or more of the four coupons develop a crack in the weld material, or between the weld material and base metal, that is more than 1/8 inch long in any direction, the weld is unacceptable. Cracks that occur on the corner of the specimen during testing are not considered.

II. Additional Tests for Welders of Service Line Connections To Mains

A service line connection fitting is welded to a pipe section with the same diameter as a typical main. The weld is made in the same position as it is made in the field. The weld is unacceptable if it shows a serious undercutting or if it has rolled edges. The weld is tested by attempting to break the fitting off the run pipe. The weld is unacceptable if it breaks and shows incomplete fusion, overlap, or poor penetration at the junction of the fitting and run pipe.

III. Periodic Tests for Welders of Small Service Lines

Two samples of the welder's work, each about eight inches long with the weld located approximately in the center, are cut from steel service line and tested as follows:

1. One sample is centered in a guided bend testing machine and bent to the contour of the die for a distance of two inches on each side of the weld. If the sample shows any breaks or cracks after removal from the bending machine, it is unacceptable.

2. The ends of the second sample are flattened and the entire joint subjected to a tensile strength test. If failure occurs adjacent to or in the weld metal, the weld is unacceptable. If a tensile strength testing machine is not available, this sample must also pass the bending test prescribed in Subparagraph 1 of this Paragraph.

Appendix D--Criteria for Cathodic Protection and Determination of Measurements

I. Criteria for Cathodic Protection

A. Steel, Cast Iron, and Ductile Iron Structures

1. A negative (cathodic) voltage of at least 0.85 volt, with reference to a saturated copper-copper sulfate half cell. Determination of this voltage must be made with the protective current applied, and in accordance with Sections II and IV of this Appendix.

2. A negative (cathodic) voltage shift of at least 300 millivolts. Determination of this voltage shift must be made with the protective current applied, and in accordance with Sections II and IV of this Appendix. This criterion of voltage shift applies to structures not in contact with metals of different anodic potentials.

3. A minimum negative (cathodic) polarization voltage shift of 100 millivolts This polarization voltage shift must be determined in accordance with Sections III and IV of this Appendix.

4. A voltage at least a negative (cathodic) as that originally established at the beginning of the Tafel segment of the E-long-I curve. This voltage must be measured in accordance with Section IV of this Appendix.

5. A net protective current from the electrolyte into the structure surface as measured by an earth current technique applied at predetermined current discharge (anodic) points of the structure.

B. Aluminum Structures

1. Except as provided in Paragraphs 3 and 4 of the Paragraph, a minimum negative (cathodic) voltage shift of 150 millivolts, produced by the application of protective current. The voltage shift must be determined in accordance with Sections II and IV of the Appendix.

2. Except as provided in Paragraphs 3 and 4 of this Paragraph, a minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift must be determined in accordance with Sections III and IV of this Appendix.

3. Notwithstanding the alternative minimum criteria in Paragraphs 1 and 2 of this Paragraph, aluminum, if cathodically protected at voltages in excess of 1.20 volts as measured with reference to a copper-copper sulfate half cell, in accordance with Section IV of this Appendix, and compensated for the voltage (IR) drops other than those across the structure-electrolyte boundary may suffer corrosion resulting from the build-up of alkali on the metal surface. A voltage in excess of 1.20 volts may not be used unless previous test results indicate no appreciable corrosion will occur in the particular environment.

4. Since aluminum may suffer from corrosion under high pH conditions, and since application of cathodic protection tends to increase the pH at the metal surface, careful investigation or testing must be made before applying cath-

odic protection to stop pitting attack on aluminum structures in environments with a natural pH in excess of eight.

C. Copper Structures

A minimum negative (cathodic) voltage, measured in accordance with Section IV of this Appendix, equal to that required for the most anodic metal in the system must be maintained. If amphoteric structures are involved that could be damaged by high alkalinity covered by Paragraphs 3 and 4 of Paragraph B of this Section, they must be electrically isolated with insulating flanges, or the equivalent.

II. Interpretation of Voltage Measurement

Voltage (IR) drops other than those across the structure-electrolyte boundary must be considered for valid interpretation of the voltage measurement in Paragraphs A.1 and 2 and Paragraph B.1 of Section I of this Appendix.

III. Determination of Polarization Voltage Shift

The polarization voltage shift must be determined by interrupting the protective current and measuring the polarization decay. When the current is initially interrupted, an immediate voltage shift occurs. The voltage reading after the immediate shift must be used as the base reading from which to measure polarization decay in Paragraphs A.3, B.2 and C of Section I of this Appendix.

IV. Reference Half Cells

A. Except as provided in Paragraph B and C of this Section, negative (cathodic) voltage must be measured between the structure surface and a saturated copper-copper sulfate half cell contacting the electrolyte.

B. Other standard reference half cells may be substituted for the saturated copper-copper sulfate half cell. Two commonly used reference half cells are listed below along with their voltage equivalent to -0.85 volt as referred to a saturated copper-copper sulfate half cell:

1. Saturated KC1 calomel half cell: -0.78 volt;

2. Silver-silver chloride half cell used in sea water: -0.80 volt.

C. In addition to the standard reference half cells, an alternate metallic material of structure may be used in place of the saturated copper-copper sulfate half cell if its potential stability is assured and if its voltage equivalent referred to a saturated copper-copper sulfate half cell is established.

H.W. Thompson
Commissioner of Conservation

RULE

Department of Natural Resources
Office of Conservation

In accordance with the Administrative Procedure Act R.S 49:950 et seq., the Office of Conservation hereby adopts the following amendments to the Hazardous Liquids regulations.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 3. Natural Resources

Chapter 301. Transportation of Hazardous Liquids by Pipeline

Subchapter A. General

§30101. Scope

This Chapter prescribes safety standards and reporting requirements for pipeline facilities used in the transportation of hazardous liquids or carbon dioxide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

§30103. Applicability

A. Except as provided in §30103.B of this Section, this Chapter applies to pipeline facilities and the transportation of hazardous liquids or carbon dioxide by pipeline within the state of Louisiana, including the transportation of gas within the coastal zone limits.

B. This Chapter does not apply to:

* * *

4. transportation of petroleum in onshore gathering lines in rural areas;

5. transportation of a hazardous liquid or carbon dioxide in offshore pipelines which are located upstream from the outlet flange of each facility in the coastal zone area where hydrocarbons or carbon dioxide are produced or where produced hydrocarbons or carbon dioxide are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream except as provided in §30272 for gatheing of hazardous liquids with inlet of the Gulf of Mexico;

6. transportation of a hazardous liquid or carbon dioxide through onshore production (including flow lines), refining, or manufacturing facilities, or storage or in plant piping systems associated with such facilities;

7. transportation of a hazardous liquid or carbon dioxide by vessel, aircraft, tank truck, tank car, or other vehicle or terminal facilities used exclusively to transfer hazardous liquids or carbon dioxide between such modes of transportation;

8. transportation of carbon dioxide downstream from a point in the vicinity of the well site at which carbon dioxide is delivered to a production facility.

C. Except for carbon dioxide pipelines that are relocated, replaced, or otherwise changed, operators with carbon dioxide pipelines in existence on July 12, 1991, need not comply with this part until July 12, 1992.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

§30105. Definitions

As used in this Chapter:

Barrel—a unit of measurement equal to 42 U.S. standard gallons.

Breakout tank—a tank used to:

a. relieve surges in a hazardous liquids pipeline system or

b. receive and store hazardous liquid transported by a pipeline for reinjection and continued transportation by pipeline.

Carbon dioxide—a fluid consisting of more than 90 percent carbon dioxide molecules compressed to a supercritical state.

Commissioner—the commissioner of conservation or any person to whom he has delegated authority in the matter concerned. For the purpose of these regulations, the commissioner is the delegated authority of the secretary of transportation.

Component—any part of a pipeline which may be subjected to pump pressure including, but not limited to, pipe, valves, elbows, tees, flanges, and closures.

Exposed pipeline—a pipeline where the top of the pipe is above the seabed in water less than 15 feet deep, as measured from the mean low water.

Gathering line—a pipeline eight inches or less in nominal diameter that transports petroleum from a production facility.

Gulf of Mexico and *its inlets*—the waters from the mean high water mark of the coast of the Gulf of Mexico and its inlets open to the sea (excluding rivers, tidal marshes, lakes, and canals) seaward to include the territorial sea and Outer Continental Shelf to a depth of 15 feet, as measured from the mean low water.

Hazardous liquid—petroleum, petroleum products, or anhydrous ammonia.

Hazard to navigation—for the purpose of this Part, a pipeline where the top of the pipe is less than 12 inches below the seabed in water less than 15 feet deep, as measured from the mean low water.

Highly volatile liquid or *HVL*—a hazardous liquid which will form a vapor cloud when released to the atmosphere and which has a vapor pressure exceeding 276 kPa (40°psia) at 37.8°C (100°F).

Interstate pipeline—a pipeline or that part of a pipeline that is used in the transportation of hazardous liquids or carbon dioxide in interstate or foreign commerce.

Intrastate pipeline—a pipeline or that part of a pipeline to which this Chapter applies that is not an interstate pipeline.

Line section—a continuous run of pipe between adjacent pressure pump stations, between a pressure pump station and terminal or breakout tanks, between a pressure pump station and a block valve, or between adjacent block valves.

Nominal wall thickness—the wall thickness listed in the pipe specifications.

Offshore—beyond the line of ordinary low water along that portion of the coast of the United States that is in direct contact with the open sea and beyond the line marking the seaward limit of inland waters.

Operator—a person who owns or operates pipeline facilities.

Person—any individual, firm, joint venture, partnership, corporation, association, state municipality, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

Pipe or *line pipe*—a tube, usually cylindrical, through which a hazardous liquid or carbon dioxide flows from one point to another.

Pipeline or *pipeline system*—all parts of a pipeline facility through which a hazardous liquid or carbon dioxide moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks.

Pipeline facility—new and existing pipe, rights-of-way and any equipment, facility, or building used in the transportation of hazardous liquids or carbon dioxide.

Production facility—piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation or treating of petroleum or carbon dioxide, or associated storage or measurement. (To be a production facility under this definition, piping or equipment must be used in the process of extracting petroleum or carbon dioxide from the ground or from facilities where CO_2 is produced, and preparing it for transportation by pipeline. This includes piping between treatment plants which extract carbon dioxide, and facilities utilized for the injection of carbon dioxide for recovery operations.)

Rural area—outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, or community development.

Secretary—the secretary of transportation or any person to whom he has delegated authority in the matter concerned.

Specified minimum yield strength—the minimum yield strength, expressed in pounds per square inch, prescribed by the specification under which the material is purchased from the manufacturer.

Stress level—the level of tangential or hoop stress, usually expressed as a percentage of specified minimum yield strength.

Surge pressure—pressure produced by a change in velocity of the moving stream that results from shutting down a pump station or pumping unit, closure of a valve, or any other blockage of the moving stream.

Transportation of hazardous liquids—the gathering, transmission, or distribution of hazardous liquids by pipeline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

§30109. Compatibility Necessary for Transportation of Hazardous Liquids or Carbon Dioxide

No person may transport any hazardous liquid or carbon dioxide unless the hazardous liquid or carbon dioxide is chemically compatible with both the pipeline, including all components, and any other commodity that it may come into contact with while in the pipeline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

§30113. Transportation of Hazardous Liquid or Carbon Dioxide in Pipelines Constructed with Other than Steel Pipe

No person may transport any hazardous liquid or carbon dioxide through a pipe that is constructed after October 1970, for hazardous liquids or after July 12, 1991 for carbon dioxide of material other than steel unless the person has notified the commissioner in writing at least 90 days before the transportation is to begin. The notice must state whether carbon dioxide or a hazardous liquid is to be transported and the chemical name, common name, properties and charac-

teristics of the hazardous liquid to be transported and the material used in construction of the pipeline. If the commissioner determines that the transportation of the hazardous liquid or carbon dioxide in the manner proposed would be unduly hazardous, he will, within 90 days after receipt of the notice, order the person that gave the notice, in writing, not to transport the hazardous liquid or carbon dioxide in the proposed manner until further notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

Subchapter B. Reporting Accidents and Safety-Related Conditions

§30125. Reporting Accidents

An accident report is required for each failure in a pipeline system subject to this Part in which there is a release of the hazardous liquid or carbon dioxide transported resulting in any of the following:

* * *

2. loss of 50 or more barrels of hazardous liquid or carbon dioxide;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

§30127. Telephonic Notice of Certain Accidents

A. At the earliest practicable moment following discovery of a release of the hazardous liquid or carbon dioxide transported resulting in an event described in §30125, the operator of the system shall give notice, in accordance with §30127.B of any failure that:

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

§30129. Addressee for Written Reports

Each operator of intrastate facilities subject to the jurisdiction of the Office of Conservation pursuant to certification under Section 205(a) of the Hazardous Liquid Pipeline Safety Act of 1979, as amended, must submit, when required, Louisiana's Accident Report, Safety-Related Conditions Reports, and Annual Report Forms to the Commissioner of Conservation, Box 94275, Baton Rouge, LA 70804-9275.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

§30135. Filling Safety-Related Condition Reports

A. Each report of a safety-related condition under §30133.A must be filed (received by the commissioner) in writing within five working days (not including Saturday, Sunday, or state holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

§30139. Operator Assistance in Investigation

If the Department of Natural Resources investigates an accident, the operator involved shall make available to the representative of the department all records and information that in any way pertain to the accident, and shall afford all reasonable assistance in the investigation of the accident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

§30141. Supplies of Incident Report Forms

Each operator shall maintain an adequate supply of forms that are a facsimile of DOT Form 7000-1 and Louisiana's Accident Report Form to enable it to promptly report accidents. The department will, upon request, furnish specimen copies of the form. Requests for DOT Form 7000-1 should be addressed to the Information Resources Manager, Office of Pipeline Safety, Department of Transportation, Washington, D.C. 20590. Requests for Louisiana's Accident Report Form should be addressed to Office of Pipeline Safety, Office of Conservation, Box 94275, Baton Rouge, LA 70804-9275.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR I5:629 (August 1989), amended LR 18: (August 1992).

§30145. Filing Offshore Pipeline Condition Reports

A. Each operator shall, within 60 days after completion of the inspection of all its underwater pipelines subject to §30272.A, report the following information:

1. name and principal address of operator;
2. date of report;
3. name, job title, and business telephone number of person submitting the report;
4. total number of miles of pipeline inspected;
5. length and date of installation of each exposed pipeline segment, and location; including, if available, the location according to the Minerals Management Service or state offshore area and block number tract; and
6. length and date of installation of each pipeline segment, if different from a pipeline segment identified under §30145.A.5, that is a hazard to navigation, and the location; including, if available, the location according to the Minerals Management Service or state offshore area and block number tract.

B. The report shall be mailed to the Information Officer, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, S.W.,

Washington, D.C. 10590 and concurrently to the Commissioner of Conservation, Office of Conservation, Box 94275, Baton Rouge, LA 70804-9275.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (August 1992).

Subchapter C. Design Requirements

§30157. Design Temperature

A. Material for components of the system must be chosen for the temperature environment in which the components will be used so that the pipeline will maintain its structural integrity.

B. Components of carbon dioxide pipelines that are subject to low temperatures during normal operation because of rapid pressure reduction or during the initial fill of the line must be made of materials that are suitable for those low temperatures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

§30167. Fracture Propagation

A carbon dioxide pipeline system must be designed to mitigate the effects of fracture propagation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (August 1992).

§30173. Valves

Each valve installed in a pipeline system must comply with the following:

* * *

3. Each part of the valve that will be in contact with the carbon dioxide or hazardous liquid stream must be made of materials that are compatible with carbon dioxide or each hazardous liquid that it is anticipated will flow through the pipeline system.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

Subchapter E. Hydrostatic Testing

§30249. Testing

* * *

B. Test Medium

* * *

3. Carbon dioxide pipelines may use inert gas or carbon dioxide as the test medium if:

a. the entire pipeline section under test is outside of cities and other populated areas;

b. each building within 300 feet of the test section is unoccupied while the test pressure is equal to or greater than a pressure that produces a hoop stress of 50 percent of specified minimum yield strength;

c. the maximum hoop stress during the test does not exceed 80 percent of specified minimum yield strength;

d. continuous communication is maintained along entire test section; and

e. the pipe involved is new pipe having a longitudinal joint factor of 1.00.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

Subchapter F. Operation and Maintenance

§30257. General Requirements

* * *

C. Except as provided by §30111, no operator may operate any part of any of the following pipelines unless it was designed and constructed as required by this Chapter:

1. an interstate pipeline, on which construction was begun after March 31, 1970, that transports hazardous liquid;

2. an interstate offshore gathering line, on which construction was begun after July 31, 1977, that transports hazardous liquid;

3. an intrastate pipeline, on which construction was begun after October 20, 1985, that transports hazardous liquid;

4. a pipeline, on which construction was begun after July 11, 1991 that transports carbon dioxide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

§30259. Procedural Manual for Operations, Maintenance, and Emergencies

* * *

B. Amendments. The administrator or the state agency that has submitted a current certification under Section 205(a) of the Hazardous Liquid Pipeline Safety Act with respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant state procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety.

C. Maintenance and normal operations. The manual required by §30259.A must include procedures for the following to provide safety during maintenance and normal operations:

* * *

7. starting up and shutting down any part of the pipeline system in a manner designed to assure operation within the limits prescribed by §30265, consider the hazardous liquid or carbon dioxide in transportation, variations in altitude along the pipeline, and pressure monitoring and control devices;

* * *

9. in the case of facilities not equipped to fail safe that are identified under §30259.C.4 or that control receipt and delivery of the hazardous liquid or carbon dioxide, detecting abnormal operating conditions by monitoring pressure, temperature, flow or other appropriate operational data and transmitting this data to an attended location;

* * *

12. establishing and maintaining liaison with fire, police, and other appropriate public officials to learn the responsibility and resources of each government organization that may respond to a hazardous liquid or carbon dioxide pipeline emergency and acquaint the officials with the operator's ability in responding to a hazardous liquid or carbon dioxide pipeline emergency and means of communication;

* * *

13. ...

D. ...

E. Emergencies. The manual required by §30259.A must include procedures for the following to provide safety when an emergency condition occurs:

* * *

2. prompt and effective response to a notice of each type emergency, including fire or explosion occurring near or directly involving a pipeline facility, accidental release of hazardous liquid or carbon dioxide from a pipeline facility, operational failure causing a hazardous condition, and natural disaster affecting pipeline facilities;

* * *

4. taking necessary action, such as emergency shutdown or pressure reduction, to minimize the volume of hazardous liquid or carbon dioxide that is released from any section of a pipeline system in the event of a failure;

5. control of released hazardous liquid or carbon dioxide at an accident scene to minimize the hazards, including possible intentional ignition in the cases of flammable highly volatile liquid;

* * *

7. notifying fire, police, and other appropriate public officials of hazardous liquid or carbon dioxide pipeline emergencies and coordinating with them preplanned and actual responses during an emergency, including additional precautions necessary for an emergency involving a pipeline system transporting a highly volatile liquid;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

§30261. Training

A. Each operator shall establish and conduct a continuing training program to instruct operating and maintenance personnel to:

* * *

2. know the characteristics and hazards of the hazardous liquids or carbon dioxide transported, including in the case of flammable HVL, flammability of mixtures with air, odorless vapors, and water reactions;

3. recognize conditions that are likely to cause emergencies, predict the consequences of facility malfunctions or failures and hazardous liquid or carbon dioxide spills, and to take appropriate corrective action;

4. take steps necessary to control any accidental release of hazardous liquid or carbon dioxide and to minimize the potential for fire, explosion, toxicity, or environmental damage;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

§30269. Line Markers

A. Except as provided in §30269.B each operator shall place and maintain line markers over each buried pipeline in accordance with the following:

* * *

2. the marker must state at least the following: "Warning" followed by the words "Petroleum (or the name of the hazardous liquid transported) Pipeline" or "Carbon Dioxide Pipeline" (in lettering at least one-inch high with an approximate stroke of one-quarter inch on a background of sharply contrasting color), the name of the operator and a telephone number (including area code) where the operator can be reached at all times.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

§30272. Underwater Inspection and Reburial of Pipelines in the Gulf of Mexico and Its Inlets

A. Except for gathering lines of four-inch nominal diameter or smaller, each operator shall, in accordance with this Section, conduct an underwater inspection of its pipelines in the Gulf of Mexico and its inlets. The inspection must be conducted after October 3, 1989 and before November 16, 1992.

B. If, as a result of an inspection under §30272.A, or upon notification by any person, an operator discovers that a pipeline it operates is exposed on the seabed or constitutes a hazard to navigation, the operator shall:

1. promptly, but not later than 24 hours after discovery, notify the National Response Center, telephone: 1-800-424-8802 of the location, and, if available, the geographic coordinates of that pipeline;

2. promptly, but not later than seven days after discovery, mark the location of the pipeline in accordance with 33 CFR Part 64 at the ends of the pipeline segment and at intervals of not over 500 yards long, except that a pipeline segment less than 200 yards long need only be marked at the center; and

3. within six months after discovery, or not later than November 1 of the following year if the six-month period is after November 1 of the year that the discovery is made, place the pipeline so that the top of the pipe is 36 inches below the seabed for normal excavation or 18 inches for rock excavation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (August 1992).

§30273. Cathodic Protection

A. No operator may operate a hazardous liquid interstate pipeline after March 31, 1973, a hazardous liquid intrastate pipeline after October 19, 1988, or a carbon dioxide pipeline after July 12, 1993 that has an effective external surface coating material, unless that pipeline is cathodically pro-

tected. This Subsection does not apply to breakout tank areas and buried pumping station piping. For the purposes of this Subchapter, a pipeline does not have an effective external coating, and shall be considered bare, if its cathodic protection current requirements are substantially the same as if it were bare.

B. Each operator shall electrically inspect each bare hazardous liquid interstate pipeline before April 1, 1975, each bare hazardous liquid intrastate pipeline before October 20, 1990, and each bare carbon dioxide pipeline before July 12, 1994 to determine any areas in which active corrosion is taking place. The operator may not increase its established operating pressure on a section of bare pipeline until the section has been so electrically inspected. In any areas where active corrosion is found, the operator shall provide cathodic protection. §30275.F and G apply to all corroded pipe that is found.

C. Each operator shall electrically inspect all breakout tank areas and buried pumping station piping on hazardous liquid interstate pipelines before April 1, 1973, on hazardous liquid intrastate pipelines before October 20, 1988, and on carbon dioxide pipelines before July 12, 1994 as to the need for cathodic protection, and cathodic protection shall be provided where necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

§30277. Internal Corrosion Control

A. No operator may transport any hazardous liquid or carbon dioxide that would corrode the pipe or other components of its pipeline system, unless it has investigated the corrosive effect of the hazardous liquid or carbon dioxide on the system and has taken adequate steps to mitigate corrosion.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

§30299. Public Education

Each operator shall establish a continuing educational program to enable the public, appropriate government organizations and persons engaged in excavation-related activities to recognize a hazardous liquid or a carbon dioxide pipeline emergency and to report it to the operator of the fire, police, or other appropriate public officials. The program must be conducted in English and in other languages commonly understood by a significant number and concentration of non-English speaking population in the operator's operating areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18: (August 1992).

H. W. Thompson
Commissioner of Conservation

RULE

Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquified Petroleum Gas Commission to make and enforce rules and regulations, notice is hereby given that the commission has amended its rule and regulations.

Title 55
PUBLIC SAFETY
Part IX. Liquefied Petroleum Gas

Chapter 12. School Bus and Mass Transit Installations

Preface

This Chapter applies to L. P. Gas systems supplying L. P. Gas to propel school buses and mass transit vehicles.

§1201. Application

A. Prior to the initial installation of or conversion to an L. P. Gas system on any vehicle to be used as a school bus by either public or private educational institutions or mass transit vehicles, an applicant (the ultimate consumer or dealer) shall submit an Application to Install an L. P. Gas System on School Bus/Mass Transit Vehicles (Form DPSLP 8035), and other information deemed necessary by the L. P. Gas Commission for review. A registration fee of $10 must be submitted with the application which includes the first registration decal. NOTE: If the application is submitted by an ultimate consumer, it must be stated on the application the name of the dealer making installation of or conversion to an L. P. Gas system.

B. After completion of the director's review of the application within the time described in §1211, the application will be returned to the applicant, indicating the submission complies with the L. P. Gas Commission rules or indicating that corrections are required, and such corrections shall be noted specifically on the returned application.

1. Rejected applications: an applicant may make the corrections required on a rejected application and may resubmit the application for review by the director in accordance with the process described in this Section.

2. Accepted applications: subject to the provisions of §1203 of this Chapter, once the application is returned to the applicant with an indication that the application complies with the L. P. Gas safety rules, L. P. Gas converted vehicle(s) may be placed immediately into L. P. Gas service upon completion of the L. P. Gas system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 18: (August 1992).

§1203. Inspections

A. Upon completion of the installation of the L. P. Gas system, a physical inspection must be conducted by the L. P. Gas Commission to ensure that all rules and regulations have been complied with and that the installation is safe. At that time a certificate of registration-completion will be issued along with a registration decal valid for the year of issuance.

B. All school bus/mass transit vehicles registered with the L. P. Gas Commission shall be inspected and issued a registration decal annually between the months of June 1

and August 31 of each year and an annual registration fee of $10 shall be paid to the L. P. Gas Commission. At this time, the commission shall issue a new registration decal certifying as to the safety of the system and thus allowing such vehicles to be fueled at any dealer installation. No dealer shall fuel any school bus/mass transit vehicle to which a current registration decal is not permanently affixed.

C. At any time, including any time prior to the L. P. Gas system being placed into service, the commission may require an inspection of any L. P. Gas converted vehicle system. No L. P. Gas system shall be placed into L. P. Gas service that does not comply with the rules promulgated by the L.P. Gas Commission in effect at the time of installation.

AUTHORITY NOTE Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 18: (August 1992).

§1205. Notice of Completion

The applicant shall notify the Office of the Director in writing when any school bus or mass transit installation is completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 18: (August 1992).

§1207. Material Variances

A. If the director determines the completed installation or conversion varies materially from the application originally accepted, resubmission of the specifications is required. The director's review of such resubmitted application will follow the described procedure(s) in §1201.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 18: (August 1992).

§1209. Review of Applications

The director will review all applications within 21 calendar days of receipt of the application. The director must mail written notification to the applicant of whether the application is accepted, rejected, or still under review within the 21 calendar day period. An application is not accepted (i.e. in compliance) until the applicant has received written notification of the acceptance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 18: (August 1992).

§1211. Maximum Permitted Filling Density

Each container shall be fitted with an approved automatic means to prevent filling in excess of the maximum permitted filling density. The motor fuel container shall be installed on the underside of the vehicle on the streetside. Installation of the container on top or at the rear of the bus is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 18: (August 1992).

§1213. Aggregate Water Capacity

L. P. Gas containers used on school buses shall not exceed 115 gallons aggregate water capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 18: (August 1992).

§1215. Container Shall Be Secured

The container shall be secured to the school bus/mass transit frame (not to the floor of the vehicle) by fasteners/brackets which are designed and manufactured by the same manufacturer as the container. The container shall have a minimum of two padded mounting frame brackets, designed (with a factor of safety of four) to withstand loadings in any direction equal to four times the filling weight of the container. Container brackets shall be secured in place using lock washers and double nutted 1/2 inch grade eight tensile strength bolts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 18: (August 1992).

§1217. Container Installation

Containers shall be installed with as much clearance as practical, but never less than the minimum normal road clearance of the vehicle under maximum load conditions. Minimum clearance shall be to the bottom of the container or to the lowest fitting on the container or housing, whichever is lower. All container valves and fitting shall be protected by means of a heavy gauge metal guard having a minimum thickness of seven gauge steel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 18: (August 1992).

§1219. Plumbing Chamber Door

A. An eight inch by 14 inch minimum size plumbing chamber door shall be provided in the street sidewall of the bus to allow easy access for filling or securing the service valve in the event of an emergency. The plumbing chamber door shall be hinged and latched, but not locked.

B. When the tank is manufactured in such a manner that the service valve is easily accessible without the use of a plumbing chamber door, no door shall be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 18: (August 1992).

§1221. Relief Valves

All safety relief valves shall be vented through the street sidewall of the bus skirting. The relief valve discharge vent line shall be metallic pipe or tubing (other than aluminum) and shall be sized, located and secured, so as not to restrict full discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 18: (August 1992).

§1223. Vent Lines

The relief valve discharge vent lines shall run vertically upward and shall be secured against the outside skirting, continuing upward between windows, terminating at the rolling eaves of the bus roof. A spring-loaded dust or rain cap must be provided which will not divert the discharge of L. P. Gas onto the container or vehicle. An approved flexible steel high pressure L. P. Gas connector shall connect the relief valve threaded collar to the discharge vent line by means of threaded fittings or manufactured hose fittings designed specifically for this purpose. The relief valve discharge vent line and the approved flexible steel high pressure L. P. Gas connector shall withstand the pressure from the relief discharge when the relief valve is in the full open position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 18: (August 1992).

G.L. "Mike" Manuel, Jr.
Director

RULE

Department of Social Services
Office of Community Services

The Department of Social Services, Office of Community Services, shall adopt the following rule in the Vendor Day Care Program. Emergency rulemaking was done in the April 20, 1992, and the July 20, 1992 issues of the *Louisiana Register.* The rule published in the *Louisiana Register*, Vol. 11, No. 7, July 20, 1985, page 689 is hereby amended.

PROPOSED RULE

Effective, March 1, 1992, the Department of Social Services, Office of Community Services, will primarily provide day care services only to children who are at risk of abuse and/or neglect. Children currently receiving services due to employment and training will be transitioned to the Child Care Assistance Program, provided eligibility for that program is established.

Any children currently receiving day care services due to employment and training who are ineligible for the Child Care Assistance Program, but who continue to be eligible for the OCS day care program will continue to receive services as long as eligiblity is maintained. A co-payment for services will be charged based on the family income shown on the sliding fee scale below.

NUMBER IN HOUSEHOLD	2	3	4	5	6	RECIPIENT'S SHARE OF CHILD CARE FEE
	0 - 8,879	0 - 11,139	0 - 13,399	0 - 15,659	0 - 17,919	5%
ANNUAL	8,880 - 10,795	11,140 - 13,055	13,400 - 15,705	15,660 - 18,355	17,920 - 21,003	10%
FAMILY	10,768 - 12,380	13,056 - 14,972	15,706 - 18,011	18,356 - 21,050	21,004 - 24,067	30%
INCOME	12,381 - 13,966	14,973 - 16,889	18,012 - 20,317	21,051 - 23,745	24,068 - 27,171	50%
	13,967 - 15,551	16,890 - 18,806	20,318 - 22,623	23,746 - 26,440	27,172 - 30,255	70%
	15,552 - 16,341	18,807 - 19,762	22,624 - 23,773	26,441 - 27,784	30,256 - 31,793	90%
	16,342 & ABOVE	19,763 & ABOVE	23,774 & ABOVE	27,785 & ABOVE	31,794 & ABOVE	100%

NUMBER IN HOUSEHOLD	7	8	9	10	11	RECIPIENT'S SHARE OF CHILD CARE FEE
	0 - 20,179	0 - 22,439	0 - 24,699	0 - 26,959	0 - 28,219	5%
ANNUAL	20,180 - 23,852	22,440 - 26,301	24,700 - 28,950	26,960 - 31,599	29,220 - 34,247	10%
FAMILY	23,853 - 27,125	26,302 - 30,163	28,951 - 33,200	31,600 - 36,238	34,248 - 39,275	30%
INCOME	27,126 - 30,598	30,164 - 34,025	33,201 - 37,451	36,239 - 40,878	39,276 - 44,303	50%
	30,599 - 34,070	34,026 - 37,886	37,452 - 41,702	40,879 - 45,517	44,304 - 49,332	70%
	34,071 - 35,902	37,887 - 39,812	41,703 - 43,821	45,518 - 47,831	49,333 - 51,839	90%
	35,903 & ABOVE	39,813 & ABOVE	43,822 & ABOVE	47,832 & ABOVE	51,840 & ABOVE	100%

Day care centers will be reimbursed for services based on the standard rate schedule shown on the following chart:

		Child Under Age 2			Age 2 and Older	
		full-time	part-time		full-time	part-time
Class A Centers	monthly	$238.30	$119.15	monthly	$216.50	$108.25
	weekly	$ 55.00	$ 27.50	weekly	$ 50.00	$ 25.00
	daily	$ 11.00	$ 5.50	daily	$ 10.00	$ 5.00
	hourly	$ 1.38	$ 1.38	hourly	$ 1.25	$ 1.25
		full-time	part-time		full-time	part-time
All other providers	monthly	$216.50	$108.25	monthly	$216.50	$108.25
	weekly	$ 50.00	$ 25.00	weekly	$ 50.00	$ 25.00
	daily	$ 10.00	$ 5.00	daily	$ 10.00	$ 5.00
	hourly	$ 1.25	$ 1.25	hourly	$ 1.25	$ 1.25

Any newly authorized day care placement by the Office of Community Services shall be for the protection of children at risk of abuse and/or neglect, the condition of the parent, the condition of the child, and foster care reasons only. There is no co-payment for these services.

Gloria Bryant-Banks
Secretary

RULE

Department of Social Services
Office of Family Support

The Department of Social Services, Office of Family Support, has adopted the following revisions to the Louisiana Administrative Code with additions pursuant to public comment.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 2. Aid to Families with Dependent Children

* * *

Chapter 11. Application, Eligibility, and Furnishing Assistance

* * *

Subchapter C. Need and Amount of Assistance

* * *

§1149. Earned Income Deductions

A. Each individual in the assistance unit who has earned income is entitled to a standard deduction, to the earned income exemption, and in certain circumstances, to a deduction for dependent care. The deductions are applied in the following order, and no other deductions are allowed:

1. Standard deduction. Effective October 1, 1989 the standard deduction will be $90.

2. Earned Income Exemption. The earned income exemption is divided into two periods. In the first four consecutive months, the exemption is the first $30 plus 1/3 of the remaining earned income; for the next eight calendar months the exemption is $30.

3. Dependent Care. The maximum deduction for dependent care costs will be $175 per month per person age two or over and $200 per month per person under age two. Recipients may be entitled to a deduction for dependent care for an incapacitated adult, for a child age 13 or older who is not physically or mentally incapacitated or under court supervision, or if the recipient received AFDC in October 1988 o August 1992 based on application of the deduction and such recipient would be disadvantaged by loss of the deduction.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, P.L. 100-485 (Section 402) and 45 CFR 205-206 and 233-234, P.L. 98-369, FR 49:35586-35606 and P.L. 100-485. Amended in accordance with 45 CFR 255.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security LR 8:8 (January 1982), amended LR 10:1030 (December 1984), amended by the Department of Social Services, Office of Eligibility Determinations LR 15: (August 1989), amended by the Department of Social Services, Office of Family Support LR 18: (August 1992).

* * *

Subchapter H. Child Care Assistance in the AFDC Program

§1195. Eligibility Requirements

A. Child care assistance will be provided to assist AFDC recipients when it is necessary to permit a member of the assistance unit to accept or maintain employment or participate in an approved educational training program, provided that the recipient has an appropriate employment goal and makes satisfactory progress.

1. The caretaker relative will be given the opportunity to choose the child care arrangement and will be paid by the agency for verified child care expenses.

2. Assistance will be provided for children under age 13 who are included in the assistance unit or would be included if such child were not an SSI recipient or IV-E Foster

Child; or under age 18 and mentally or physically incapable of self-care as verified by a physician or licensed psychologist, or under court supervision.

3. The payment schedule will be in accordance with the Transitional Child Care Program at LAC 67:III.1181.G.2.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 255.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Security in LR 18: (August 1992).

Gloria Bryant-Banks
Secretary

RULE

Department of Social Services
Office of Family Support

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 5, Job Opportunities and Basic Skills Training Program, or Project Independence, the name for Louisiana's program.

This rule is necessary to prevent abuse of the conciliation process for Project Independence found at 45 CFR 250.36.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 5. Job Opportunities and Basic Skills Training Program

* * *

Chapter 29. Organization
Subchapter A. Designation and Authority of State Agency
§2901. Implementation

A. ...

* * *

5. Conciliation

* * *

e. Participant requested conciliation is limited to one time per component.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.36.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Office of Eligibility Determinations in LR 16:626 (July 1990), LR 16:1064 (December 1990), LR 17:1227 (December 1991) and LR 18:80 (January 1992). Amended LR 17:973 (October 1991), amended LR 18: (August 1992).

Gloria Bryant-Banks
Secretary

RULE

Department of Social Services
Office of Family Support

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 4, Support Enforcement Services.

This rule is mandated by Action Transmittal OCSE-AT-91-02 which affects paternity 45 CFR 303.5.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 4. Support Enforcement Services

* * *

Chapter 27. General Program Administration
Subchapter A. Establishment of Paternity
§2701. Blood Tests

A. Effective August, 1992, if paternity is established and paternity blood tests were performed, the Department of Social Services, Office of Family Support, Support Enforcement Services, must attempt to obtain a judgment of the costs of the blood tests from the party who denied paternity, so long as the amount requested does not exceed the actual costs of the blood tests.

* * *

AUTHORITY NOTE: Promulgated in accordance with F.R. 56:22335, 45 CFR 303.5.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18: (August 1992).

Gloria Bryant-Banks
Secretary

RULE

Department of Transportation and Development
Flood Control and Water Management Division

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development has adopted revisions to its rule entitled Port Construction and Development Priority Procedures (LAC 70:XV.Chapter 2) in accordance with the provisions of Act 452 of the 1989 Regular Session of the Legislature.

Title 70
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
Part XV. Flood Control and Water Management

Chapter 2. Louisiana Port Construction and Development Priority Program Procedural Manual
§201. Port Construction and Development Priority Program

A. The following procedures apply to projects which have been funded by the Port Construction and Development Priority Program:

1. The Port Construction and Development Priority Program was established by Act 452 of the 1989 Regular Session of the Louisiana Legislature. Its primary goal is improving ports and harbors in the state. The Act provides for the development of a methodology for port project evaluation; reporting to the Joint Legislative Committee on Transportation, Highways and Public Works; presenting a recommended construction program to the legislature; and establishing the Transportation Trust Funds as the source of state funds.

2. Port authorities desiring to obtain funds from the Port Construction and Development Priority Program must submit an application to the Department of Transportation and Development in accordance with the program rules and

regulations. The department evaluates the applications and submits a list of projects to the Joint Legislative Committee on Transportation, Highways and Public Works. The committee holds public hearings and submits a construction program to the legislature for funding.

3. The department will enter into an agreement with port authorities whose applications have been favorably reviewed and for whom funding has been made available in accordance with the prioritized list of projects. The agreement will identify the duties and responsibilities of each party and the procedures to follow to develop construction plans and specifications, advertise and award a construction contract and administer the construction contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3451 through 3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18: (August 1992).

§203. Engineering, Advertising and Contracting Procedures

A. Sponsor Responsible for Engineering. The State of Louisiana requires potential recipients of funds through the Department of Transportation and Development, Division of Flood Control and Water Management, Office of Project Support (Office) to follow certain procedures and to comply with applicable Louisiana Statutes and Office requirements during development, construction and operation of the project. The engineering, advertising and contracting procedures are divided into five phases and are as follows:

1. Engineering Phase

a. If the port authority or sponsor employs a consulting engineer, he shall follow port procedures which have been approved by the Department of Transportation and Development (DOTD) for evaluation of capabilities and selection of consultants.

b. If the sponsor elects to utilize its own staff for engineering services, the sponsor shall assign a Louisiana Registered Professional Engineer in responsible charge of the project.

c. Prior to advertising these projects for bids, certain design information must be submitted to the Office for review. The scope of the project shall be as submitted in the approved application. Design information must comply with the Office's requirements as follows:

i). Maps, plans, profile sheets and cross-section sheets submitted shall be consistent with accepted engineering practice. Each sheet of the construction plans and the title page of the specifications shall be stamped and signed by a Registered Professional Engineer licensed to practice in the State of Louisiana.

ii). Standard-sized sheets up to 24''x36'' shall be used for cross-section sheets, plans and profile sheets. Maps shall conform to appropriate scales.

iii). All maps, plans, profile sheets, cross-section sheets, and other exhibits shall include a standard title block that identifies the sponsor, the project (include state project number), preparer, name of the exhibit and number of sheets, if applicable.

iv). all elevations should reference mean sea level (National Geodetic Vertical Datum of 1929). The applicant is encouraged to make use of available information.

v). The design standards shall comply with the DOTD criteria. The format of the plans shall conform to the standards used by the DOTD in preparation of its contract plans for items of work of similar character, including plans for all drainage and utilities affected, as contained in the current edition of its ''Hydraulic Manual'', ''General Guide for Bridge Plan Preparation'', and ''Roadway Plan Preparation Manual''.

vi). Design surveys, right-of-way surveys and the preparation of right-of-way maps shall be performed by the sponsor in accordance with the requirements specified in the current edition of the DOTD ''Location and Survey Manual''.

d. After preliminary plans have been developed to show all information required, four sets of prints shall be submitted to the Office for review and comments. If DOTD determines that a plan-in-hand inspection is required, one complete set of sepia reproducibles, if required, shall be submitted to DOTD for its use in scheduling a plan-in-hand field inspection with members of DOTD, the sponsor and/or its consulting engineer, at a time and date mutually agreed to in advance by all parties. Subsequent to the review and comments, the sponsor shall make such changes in the plans as necessary to reflect agreements reached at this stage and shall show existing and taking lines required for right-of-way.

e. Following the completion of preliminary plans, four complete sets of prints of the basic plans, dated and stamped ''Advance Check Prints'', together with four draft copies of the bid proposal and four copies of the project cost estimate shall be submitted to the Office for review and comment.

f. Specifications for the project shall be in accordance with the Louisiana Standard Specifications, latest revision, as amended to comply with the Office's current practices. Any exceptions to the use of these standard specifications shall have the prior approval of the Office.

g. Upon completion of its review of the draft of the bid proposal, cost estimate, and advance check prints, the Office will return one set to the sponsor with comments, if any, marked thereon, and the above documents will be reviewed to reflect agreements reached.

h. The sponsor may proceed with acquisition of right-of-way upon the completion of the Office's review of the design and right-of-way plans.

2. Advertising Phase

a. Prior to Advertising. Prior to advertising for bids, the following must have been completed:

i). obtain written notice from the Office that the proposed project plans, specifications, and cost estimate comply with the requirements of the Port Construction and Development Priority Program and of the Office;

ii). all required permits have been obtained and verification submitted to the Office, if required;

iii). all rights-of-way, servitudes and/or easements have been obtained and verification submitted to the Office, if required;

iv). agreements to relocate and/or adjust utilities have been obtained and verification submitted to the Office, if required;

v). assurance of availability of required local matching funds;

vi). subsequent to the completion of the Office's review of final plans, acquisition of all required rights-of-way, and agreements to relocate and/or adjust all utility conflicts, and securing the sponsor's portion of funds, the sponsor shall adopt a resolution certifying completion of the above

and requesting authorization to advertise for bids. The resolution shall be similar to the draft resolution in Appendix A. The sponsor shall submit a certified copy of the adopted resolution to the Office;

vii). obtain written notice from the Office for the sponsor to advertise for receipt of bids.

b. Advertising. The following procedure, in accordance with the Louisiana Revised Statutes 38:2212, et seq. shall be followed:

i). the notice of advertisement shall be placed in the contracting agency's Official Journal within the parish in which the work is to be done;

ii). if the journal is a weekly paper, at least three advertisement notices must appear in the paper. These notices must appear once each week for three consecutive weeks, the first advertisement to appear at least 30 days prior to the bid opening date;

iii). if the journal is a daily paper, the advertisement must be published three times within 15 days, the first advertisement to appear at least 30 days prior to the bid opening date;

iv). notice should also be placed in other papers and/or journals as needed to provide reasonable exposure of the proposed work, such as papers of large circulation, trade journals, and papers in the general locality of the work;

v). addenda shall have prior review from the Office that said addenda complies with the requirements of the Port Construction and Development Priority Program and the Office. No addendum shall be issued within 72 hours prior to the advertised time for the bid opening, excluding Saturdays, Sundays, and legal holidays;

vi). upon advertising for bids, the sponsor shall add DOTD, Project Support Section, to the bidder's list and forward three sets of plans and construction proposals marked "Not for Bid".

3. Review of Advertising Phase

a. Advertising Submittal. All advertising and bidding procedures for projects which are to be funded in part by state funds through the Port Construction and Development Priority Program, must be submitted to the Office for review prior to the award of the contract. The Office will need the following:

i). copy of the letter to the publisher of the journal requesting publication of the notice of advertisement;

ii). certified proof of publication from the sponsor's Official Journal of the notice of advertisement in accordance with R.S. 38:2212, et seq. Said proof shall consist of a copy of the notice as published and an affidavit bearing the signature of an official of the publisher certifying the dates the notice was published. The affidavit shall be notarized. (The furnishing of the newspaper or newspaper clipping only, will not suffice as proof of publication);

iii). one copy of the bid proposal packet as submitted by each of the three lowest bidders;

iv). a legible copy of the bid tabulation of all bids received. Said tabulation shall include a column containing the engineer's estimate and shall be certified correct by an authorized official of the sponsor;

v). copy of engineer's recommendation;

vi). letter of intent from the sponsor indicating that they intend to award a contract to the lowest qualified bidder or to reject all bids. If the intent is to award a contract, the letter shall state the date bids were received, the name of the qualified bidder, and the contract amount.

b. Bid Proposals and Bonds. All bid proposals and bid bonds shall comply with R.S. 38:2214, 38:2215, 38:2218 and the following:

i). all entries on the bid proposal are to be in ink or typed;

ii). the bid proposal shall be properly signed by the bidder (individual owner, partner, or authorized officer of the corporation);

iii). if a bid bond is submitted in lieu of a cashier's or certified check, said bond shall be properly executed by an individual owner, partner, or authorized officer of the corporation submitting the bid be signed by a representative of an acceptable surety company, and countersigned by an authorized Louisiana resident agent. Said representative shall attach a valid Power of Attorney authorizing him to represent the surety company.

c. Review, Recommendations, and Resolutions. When the review of the above has been completed, the Office will make its recommendations to the sponsor. After the Office has made its recommendations, the sponsor shall adopt a resolution to either award a contract to the lowest qualified bidder (see Appendix B for draft resolution to award a contract) or to reject all bids received (see Appendix C for draft resolution to reject all bids). The sponsor shall submit a certified copy of the adopted resolution to the Office.

4. Re-Advertisement Phase. If the sponsor rejects all the bids received but still desires to construct the project and obtain Program funds, then the following procedures shall be pursued. In all cases, the benefits to be derived from implementation of the project as stated in the application must still be obtained.

a. Submittals. The sponsor shall submit the following to the Office for review and comment:

i). a certified copy of the resolution rejecting all bids received as stated in the section entitled "Review, Recommendations, and Resolution" (see Appendix C for draft resolution to re-advertise);

ii). two sets of plans, specifications, and cost estimate which have been revised if required.

b. Re-Advertising Procedures. The procedures for re-advertising shall be the same as that stated in the "Advertising Phase" and the "Review of Advertising Phase", except that the resolution requesting authorization to re-advertise shall be reworded to reflect the re-advertisement, i.e. change the word "advertise" to "re-advertise" and furnish a certified copy of the adopted resolution to this Office.

5. Contract Document Phase

a. Contract Documents. Contract documents shall be in accordance with R.S. 38:2216, 38:2217, 38:2219 to 38:2225. Prior to issuance of a work order or notice to proceed, two duplicate originals and three conforming copies of the contract documents must be submitted to the Office for review, along with a certified copy of the award. The contract documents shall be bound and shall consist of the following:

i). fully executed contract, executed and witnessed in ink;

ii). if the contractor is a corporation, a certified copy of a resolution adopted by its Board of Directors authorizing an officer to bind the corporation, attest to by the corporation's secretary and signed in ink. Authorization of officer may be specific or general;

iii). performance and payment bond, fully executed, bearing original signatures in ink and the seal of the surety company affixed thereto, along with a Power of Attorney au-

thorizing a representative of the surety company to execute the bond. Bonds must also be countersigned by a Louisiana resident agent;

iv). an affidavit by the contractor (individual owner, partner, officer of the corporation authorized to execute the contract) attesting that the public contract was not and will not be secured through employment, or payment of solicitor. Said affidavit shall be notarized;

v). construction proposal including project specifications.

6. The duplicate originals shall contain original ink signatures for the contract, bond, power of attorney, affidavit and resolution, except the power of attorney for the bonds may be signed by facsimile if the surety agrees to be bound by such.

b. Written Notice. Upon obtaining written notice that the contract documents comply with the program's requirements and that of the Office, the sponsor will have an original of the approved contract and performance bond recorded in the Mortgage Records of the parish or parishes where the work is to be performed. A copy of the recordation data shall be furnished to the Office. The sponsor may proceed to issue the work order and furnish four copies to the Office.

7. Construction and Payment Phase

a. Partial Payments. During construction, partial payments may be made monthly as follows:

i). inspection of the constructed work shall be directed by a Registered Professional Engineer, licensed to practice in Louisiana. Said engineer shall certify that the contractor is constructing the project with quality materials as specified, and using sound engineering principles. The engineer shall also certify the quantities and amount of the completed work that substantially complies with the plans and specifications;

ii). all construction inspection personnel utilized by the sponsor and/or the sponsor's consultant must meet the same qualifications required of DOTD construction personnel. When certification in a specific area is required, these personnel must meet the certification requirements of DOTD;

iii). all construction procedures must be in accordance with DOTD guidelines and policies established by the "Construction Manual", Chapter IX, the "Engineering Directives and Standards Manual", and any applicable memoranda. These documents will be made available to the consultant through the sponsor;

iv). all documentation of pay quantities must conform to the requirements of DOTD as outlined in the "Construction Manual", Chapter VI. This manual will be made available to the consultant through the sponsor;

v). all materials to be tested shall be sampled in accordance with a "Sampling Manual" prepared by the project engineer in cooperation with the DOTD District Laboratory engineer in accordance with DOTD's "Engineering Directive and Standard Manual" III.5.1.2. All material testing other than those tests normally run by project personnel on the job site shall be tested by DOTD's District or Central Laboratory or an approved testing laboratory;

vi). if a change order is required to increase or decrease the contract amount, it must be submitted to the Office for review prior to authorizing the contractor to perform any work relating to the change order. The sponsor shall require that the contractor notifies his surety of any changes affecting the general scope of work or changes in the contract and the amount of the applicable bonds.

b. Project Completion. Upon completion of the project, the sponsor's engineer shall notify the DOTD Project Coordinator and the Project Support Chief to schedule a final inspection. The department shall inspect the project with the sponsor's engineer. Upon certification by the sponsor's engineer that the project is complete and upon acceptance by the sponsor, said acceptance will be recorded by the sponsor in the Mortgage Records of the parish or parishes where the work was performed.

c. Lien Certificate. Forty-five days after the recordation of the acceptance, the contractor, through the sponsor shall submit to the Department a Lien Certificate from the Recorder of Mortgages of the parish or parishes in which the work was performed, certifying that there are no claims or liens recorded against the contractor or the contract. Final payments of all amounts due by the Department will be made upon receipt of said certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3451 through 3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18: (August 1992).

§205. DOTD Responsible for Engineering

Reserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3451 through 3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18: (August 1992).

§207. Operation and Maintenance

A. General

1. Projects which are funded by the Port Construction and Development Priority Program are planned and implemented with their primary goal being the improvement of ports and harbors in the state. To assure that this goal is met after the project is completed, the program requires that the sponsor agrees to operate and maintain the project in accordance with an Operation and Maintenance Manual, which has been approved by the Office.

2. Upon completion of the project, the sponsor shall submit to the Office for review and approval, two copies of the Operation and Maintenance Manual which has been prepared by the sponsor's engineer in accordance with the Office's requirements. If the DOTD prepares the plans and specifications, the DOTD shall prepare the Operation and Maintenance Manual. Upon determining that the Manual meets the requirements of the Office, written approval shall be sent to the sponsor by the Office.

3. The sponsor shall operate and maintain the project in accordance with the approved Operation and Maintenance Manual for a minimum of three years. The Office may inspect a completed project at any time to assure compliance. Noncompliance will cause the sponsor to be ineligible for funding of any subsequent project by the Port Construction and Development Priority Program.

B. Requirements

1. General Requirements

a. The sponsor shall appoint a superintendent who shall have the authority and responsibility to operate and maintain, in accordance with the approved Operation and Maintenance Manual, the structures and facilities that have been constructed by the funds provided by the Port Construction and Development Priority Program.

b. The sponsor shall advise the Office in writing the name of the superintendent, his mailing address, home and business telephone numbers and will advise in writing of any changes.

c. The superintendent shall submit to the Office an annual report covering inspections, problems and corrective actions taken.

d. A reserve supply of materials needed during an emergency shall be maintained.

e. Encroachments or trespasses which will adversely affect the operation and maintenance of the facilities shall not be permitted.

f. No improvements shall be passed over, under or through the walls, levees, channels or floodways, nor shall any excavation or construction be permitted within the limits of the project right-of-way, nor shall any changes be made to the structures and facilities without the review and written notice from the Office.

C. Format for Operation and Maintenance Manual. The format for the Operation and Maintenance Manual shall be as follows:

1. Project Summary
a. Identify
i). Parish
ii). Sponsoring Authority
iii). Project Name
iv). Person responsible for operation and maintenance
(a) Name
(b) Mailing address
(c) Telephone number-Business and Home
v). Contractor
(a) Name
(b) Mailing address
(c) Telephone number
vi). Engineer
(a) Name
(b) Mailing address
(c) Telephone number
vii). Brief Project Description
(a) Project components
(b) General location
b. History
2. Detailed description of project
a. Project components
b. Location
3. Operation
a. Normal procedures
b. Emergency procedures
4. Maintenance
a. Inspecting
b. Testing
c. Lubricating
d. Trouble shooting
e. Repairing
5. Appendix
a. As-built data
i). Final estimate
ii). "As-built" plans
(a) Wiring Diagram[1]
(b) Plumbing Diagram[1]
(c) Testing Data[1]
b. Manufacturers' Recommendations
i). Operation
ii). Maintenance
c. Suggested Forms
i). Operator's log
ii). Maintenance records
iii). Inspection check list
iv). Repair and cost records
[1]If applicable

AUTHORITY NOTE: Promulgated in accordance with R.S. 3451 through 3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18: (August 1992).

§209. Sample Agreement with Sponsor Responsible for Engineering

STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DIVISION OF FLOOD CONTROL AND WATER MANAGEMENT

STATE PROJECT NO. _____
PORT IMPROVEMENTS TO (PROJECT NAME)
(SPONSOR'S NAME)
(PARISH) PARISH

THIS AGREEMENT, made and executed in three (3) original copies on this ____ day of _____, 19__, by and between the Department of Transportation and Development, Division of Flood Control and Water Management, hereinafter referred to as "DOTD", and the (SPONSOR'S NAME), a political subdivision of the State of Louisiana, hereinafter referred to as "Sponsor";

WITNESSETH: That;

WHEREAS, under the provisions of Title 34 of the Louisiana Revised Statutes, of 1950, as amended, funds have been appropriated to finance Port improvement projects in the approved Port construction and Development Priority Program under the direct administration of the DOTD; and

WHEREAS, the Sponsor has requested and has received an appropriation of State funds to finance a portion of the port improvement project as described herein; and

WHEREAS, the Sponsor has self-generated funds available for its share of participation in the port improvement project; and

WHEREAS, the Sponsor agrees to furnish all lands, easements, rights-of-way and spoil disposal areas necessary to construct and maintain the project without cost to the State unless said lands are an integral part of the project and have been included in the Application recommended for funding; and

WHEREAS, the Sponsor agrees to assume all maintenance and operation costs for the project and all future alterations as may be required without cost to the State; and

WHEREAS, the Sponsor agrees to accomplish all necessary utility and any other facility relocations, alterations and maintenance without cost to the State; and

WHEREAS, the Sponsor agrees to provide at least twenty-five percent (25%) local participation for cost of the project; and

WHEREAS, the DOTD agrees to provide no more than seventy-five percent (75%) participation for the cost of the project or as modified by the Port Construction and Development Priority Program Rules and Regulations; and

NOW, THEREFORE, in consideration of the premises and mutual dependent covenants herein contained, the parties hereto agree as follows:

ARTICLE I - PROJECT DESCRIPTION

The improvement that is to be undertaken under this project shall be port improvements consisting of (PROJECT DESCRIPTION). The scope of the project shall be as shown in the approved application.

For purposes of identification and record keeping, a State Project Number has been assigned to this project as follows:

For construction costs, including testing, State Project No. _____ has been assigned. All progress reports, invoices, etc., incurred in the performance of these services shall be identified with this project number.

Project development and construction shall be in accordance with DOTD, Division of Flood Control and Water Management, "Port Construction and Development Priority Program Procedural Manual".

ARTICLE II - FUNDING

Except for services hereinafter specifically listed to be furnished at the DOTD's expense or at the Sponsor's expense, as the case may be, the cost of this project will be a joint participation between the Sponsor and the DOTD. The Sponsor does, however, reserve the right to incorporate items of work into the construction contract not eligible for State-Aid participation if it so desires. Funds will be disbursed as provided in Article VII.

ARTICLE III - PRELIMINARY ENGINEERING

The Sponsor or Consulting Engineer employed by it shall make all necessary surveys and prepare plans, specifications and estimates for the project in accordance with the applicable Port Construction and Development Priority Program, DOTD requirements, and the following specific requirements:

1. If the Sponsor employs a Consulting Engineer, he shall follow procedures for evaluation of capabilities and selection of consultants, which have been approved by DOTD.

2. The design standards shall comply with the DOTD criteria. The format of the plans shall conform to the standards used by the DOTD in the preparation of its contract plans for items of work of similar character, including plans for all drainage and utilities affected, as contained in the current edition of its "Hydraulics Manual" and "General Guide for Bridge Plan Preparation", and "Roadway Plan Preparation Manual".

3. Design surveys, right-of-way surveys and the preparation of right-of-way maps shall be performed by the Sponsor in accordance with the requirements specified in the current edition of the DOTD "Location and Survey Manual".

4. After preliminary plans have been developed to show all information required, four (4) sets of prints shall be submitted to the DOTD for review and comments. If DOTD determines that a plan-in-hand inspection is required, one complete set of sepia reproducibles if required, shall be submitted to DOTD for its use in scheduling a plan-in-hand field inspection with members of DOTD, the Sponsor and/or its Consulting Engineer at a time and date mutually agreed to in advance by all parties.

Subsequent to the review and comments, the Sponsor shall make such changes in the plans as necessary to reflect agreements reached at this stage and shall show existing and taking lines required for rights-of-way.

5. Following the completion of preliminary plans, four (4) complete sets of prints of the basic plans, dated and stamped "Advance Check Prints", together with four (4) draft copies of the bid proposal and four (4) copies of the project cost estimate shall be submitted to the DOTD for review and comment.

6. Specifications for the project shall be in accordance with the "Louisiana Standard Specifications", latest revision, as amended to comply with the DOTD current practices. Any exceptions to use of these Standard Specifications shall have the prior approval of the DOTD.

7. Upon completion of its review of the Advance Check Prints, draft of the bid proposal and cost estimate, the DOTD will return one (1) set to the Sponsor with comments, if any, marked thereon and the above documents will be revised to reflect agreements reached.

8. The Sponsor may proceed with acquisition of right-of-way upon the completion of the Office's review of the design and right-of-way plans.

9. Subsequent to the completion of the Office's review of final plans, acquisition of all required rights-of-way and agreements to relocate and/or adjust all utility conflicts, and securing the Sponsor's portion of funds, the Sponsor shall adopt a Resolution certifying completion of the above and submit a certified copy of said Resolution to the Office.

ARTICLE IV - RECEIPT OF BIDS

The Sponsor shall advertise and receive bids in accordance with the "Port Construction and Development Priority Program Procedural Manual" and generally as follows:

Construction projects are to be advertised for the receipt of bids on three separate occasions in the Sponsor's Official Journal plus any other publication to insure appropriate widespread advertisement commencing thirty (30) days prior to the bid date.

Upon advertising for bids the Sponsor shall add DOTD, Project Support Section to the bidders list and forward three sets of plans and construction proposals marked "Not for Bid" to DOTD.

Following the receipt and extension of bids, a designated official representing the Sponsor shall affix his stamp thereto certifying the accuracy of the tabulation. In addition, a column containing estimated unit prices shall be added to the tabulation sheet with a summation reflecting the total estimate cost.

One copy of the bid tabulation shall be submitted to the DOTD along with a non-collusion affidavit, the Engineer's recommendation and a copy of the Sponsor's proposed action, (recommending acceptance of the bid of the lowest responsible bidder or rejection of all bids received). After review, the DOTD will make its recommendation to the Sponsor.

Following the execution of the contracts, two duplicate originals and three conformed copies shall be submitted to the DOTD for review. Upon written notice of the completion of the DOTD's review, the Sponsor will have an original of the contract and performance bond recorded in the mortgage records of the parish or parishes where the work is to be performed. A copy of the recordation data shall be furnished to the DOTD. The Sponsor may proceed to issue the work order and will provide the DOTD with four copies of the work order when issued.

ARTICLE V - CONSTRUCTION

The Sponsor or its Consultant will provide technical administration and inspection during the project construction; however, in the event a Consultant provides this service for the Sponsor, it will be performed under the direct supervision of a full time employee of the Sponsor who will have charge and control of the project at all time.

Except where a deviation has been mutually agreed to in writing by both DOTD and the Sponsor, the following specific requirements shall apply:

1. When it is stipulated in "Louisiana Standard Specifications" that approval by the Engineer or the DOTD is required for equipment and/or construction procedures, such approval must be obtained from the Project Engineer.

2. All construction inspection personnel utilized by the Sponsor and/or the Sponsor's consultant must meet the same qualifications required of DOTD construction personnel. When certification in a specific area is required, these personnel must meet the certification requirements of DOTD.

3. All construction procedures must be in accordance with DOTD guidelines and policies established by the "Construction Manual", Chapter IX, the "Engineering Directives and Standards Manual", and any applicable memoranda. These documents will be made available to the consultant through the Sponsor.

4. All documentation of pay quantities must conform to the requirements of DOTD as outlined in the "Construction Manual", Chapter VI. This manual will be made available to the consultant through the Sponsor.

5. All materials to be tested shall be sampled in accordance with a "Sampling Manual" prepared by the Project Engineer in cooperation with the DOTD District Laboratory Engineer in accordance with DOTD's Engineering Directives and Standards Manual III.5.1.2. All material testing other than those tests normally run by project personnel on the job site shall be tested by the DOTD's District or Central Laboratory, or an approved testing laboratory.

The Consultant and/or the Sponsor shall be required to comply with all parts of this section while performing duties as Project Engineer.

ARTICLE VI - INCIDENTAL COSTS

Incidental project costs incurred by the Sponsor in negotiating preliminary engineering contracts, right-of-way settlements, railroad and utility adjustments and for bid advertisements, contract recordation, and such other costs not provided in Article VII shall be the responsibility of the Sponsor.

Incidental project costs incurred by the DOTD for services relating to preliminary engineering, right-of-way acquisitions, utility relocations, construction and construction engineering will be absorbed by DOTD.

ARTICLE VII - PAYMENT

The DOTD shall pay the Sponsor, monthly, seventy-five (75%) percent of the costs of construction or as modified by the Rules and Regulations, but not to exceed the amount made available by the Legislature which is ($ Louisiana Share). The Sponsor shall render invoices monthly for payment, which invoices shall be certified as correct by the Sponsor's Engineer and by the proper designated official of the Sponsor. All such charges shall be subject to verification, adjustment and/or settlement by the DOTD's Audit Officer.

In the event the Sponsor elects to utilize a Consulting Engineer to perform engineering services, it shall adhere to procedures for the selection and retainage of consultants which have been approved by DOTD prior to utilizing the Consulting Engineer under this project.

When the final cost of construction has been determined, adjustments will be made so that the amount of participation in these items will not exceed the authorized percentages. Before final payment is recommended by the DOTD, all documentation of pay quantities shall conform to DOTD policies and procedures. The Sponsor acknowledges, however, that the DOTD will not participate in the cost of those items not constructed in accordance with the approved plans and specifications and in this event the Sponsor will be obligated to assume full financial responsibility.

The participation by the DOTD in the project shall in no way be construed to make the DOTD a party to the contract between the Sponsor and its contractor.

ARTICLE VIII - COST RECORDS

The Sponsor and all others employed by it in connection with this project shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred relative to this project and shall keep such material available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the project, for inspection by the DOTD and/or Legislative Auditor, or any authorized representative of the State Government under State Regulations effective as of the date of this contract and copies thereof shall be furnished if requested.

ARTICLE IX - CANCELLATION

In the event the Sponsor should desire to cancel the project prior to the receipt of bids, any cost that has been incurred for the preparation of plans will not be eligible for payment by the DOTD. If one (1) year should elapse from the date of funding by the Legislature and the submittal of preliminary engineering plans for the construction of said project, then this agreement will become null and void and the funds allocated for said project shall be reallocated.

ARTICLE X - PROJECT RESPONSIBILITY

The DOTD, its officers, engineers and employees will not be required to supervise or perform such other services in connection with the development of this project except as specifically set forth herein; however, the Sponsor will assume full responsibility for the project development and will save and hold harmless the DOTD against any loss or damage of any kind incident to or occasioned by activities undertaken in pursuance of this agreement and expressly agrees to defend any suit brought against the DOTD, and pay any judgement which may result from said suit as it relates to the project.

ARTICLE XI - FINAL INSPECTION, MAINTENANCE, AND MONITORING

Upon completion and final acceptance of the project, copy of which acceptance shall be furnished to the DOTD by the Sponsor, the Sponsor shall assume the operation and maintenance of the improvement at its expense and in accordance with the "Operation and Maintenance Manual" prepared by the Sponsor and approved by the DOTD. The final acceptance will be recorded by the Sponsor. Before making the final inspection, the DOTD, Division of Flood Control and Water Management, Project Support Chief shall be notified, so that he may have a representative present for such inspection.

Title to the project rights-of-way shall be vested in the Sponsor but shall be subject to Port Construction and Development Priority Program requirements and regulations concerning abandonment, disposal, encroachments and/or uses for port purposes as stated in the "Rules and Regulations".

The Sponsor shall monitor the project for at least three years as stated in the "Rules and Regulations".

ARTICLE XII - PROGRESS SCHEDULE

Within thirty (30) days after this agreement is executed, the Sponsor shall submit to DOTD a Progress Schedule that indicates, using a bar graph, the various activities that must be accomplished to develop construction plans and specifications and let a construction contract within the time allotted. The schedule shall be submitted to the Project Support Section of the Division of Flood Control and Water Management of DOTD.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their respective officers thereunto duly authorized as of the date and year first above written.

WITNESS:

_____
Sponsor's Name

_____
Federal I. D.

BY: _____

TITLE: _____

_____
Witness for First Party

_____
Witness for First Party

STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT

BY: _____
Secretary

_____
Witness for Second Party

RECOMMENDED FOR APPROVAL

BY: _____
Chief Engineer

_____
Witness for Second Party

RECOMMENDED FOR APPROVAL

BY: _____
Chairman, Evaluation Committee

AUTHORITY NOTE: Promulgated in accordance with R.S. 3451 through 3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18: (August 1992).

§211. Sample Agreement with DOTD Responsible for Engineering

Reserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451 through 3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18: (August 1992).

APPENDIX A. DRAFT RESOLUTION FOR ADVERTISING

STATE PROJECT NO._____

PARISH OF _____

RESOLUTION

(Port Authority)

WHEREAS, (Port Authority) has submitted an application for funding of the (Project Name) port improvement project under the Port Construction and Development Priority Program; and

WHEREAS, the State's share of the project funds have been made available and the (Port Authority) has available its local matching share of the project funds in an amount of not less than twenty-five (25%) percent; and

WHEREAS, at the request of this (Port Authority), (Consulting Engineer) has prepared plans and specifications for said project, which plans and specifications are designated by State Project No. _____; and

WHEREAS, this (Port Authority) has reviewed the final plans, specifications and cost estimate and accepts them as submitted and the Department of Transportation and Development has reviewed the final plans, specifications, and cost estimate and has approved them inasmuch as they comply with the requirements of the Port Construction and Development Priority Program; and

WHEREAS, all necessary servitudes, rights-of way, spoil disposal areas, rights of ingress and egress and the means thereof have been acquired by this (Port Authority), and the titles thereto are valid and indefeasible; and

WHEREAS, this (Port Authority) has obtained all necessary permits required for the construction of this project; and

WHEREAS, (Port Authority) has agreed to accomplish all necessary utilities, fence and other facilities relocations and alterations made necessary by this project; and

WHEREAS, the Official Journal for the (Port Authority) is (Official Journal), whose mailing address is (Mailing Address including City, State & Zipcode), and whose telephone number is (Area Code & Telephone Number); and

WHEREAS, this (Port Authority) desires to advertise for competitive bids, in accordance with LRS 38:2212, et seq., for the award of a contract in the name of the (Port Authority), and furnish engineering services during the progress of the work.

NOW, THEREFORE, BE IT RESOLVED by the (Port Authority), in (Regular) or (Special) session assembled on this _____ day of _____, 19__, that the Department of Transportation and Development be and hereby is requested to authorize the (Port Authority) to advertise for competitive bids in accordance with LRS 38:2212, et seq, for the award of a contract in the name of (Port Authority), covering the aforesaid improvements.

BE IT RESOLVED that the Department of Transportation and Development be and hereby is assured that all necessary servitudes, rights-of-way, rights of ingress and egress and the means thereof have been obtained by (Port Authority), and the titles thereto are valid and indefesible and (Port Authority) expressly agrees to defend any action for the failure of any servitude, right-of-way, right of ingress or egress, and (Port Authority) does hereby assume complete responsibility for providing engineering services during construction and the maintenance and upkeep of the project after construction.

BE IT RESOLVED that the Department of Transportation and Development be and hereby is assured that all required permits have been obtained by (Port Authority).

BE IT RESOLVED that the Department of Transportation and Development be and hereby is assured that (Port Authority) has available its local matching funds in an amount not less than twenty-five (25%) percent of the total project cost to insure construction of this project.

BE IT RESOLVED that (Port Authority) will and hereby does assume complete responsibility for all utilities, fence, and other facilities relocations and alterations made necessary by this project.

BE IT RESOLVED that (Port Authority) does hereby save and hold harmless the Department of Transportation and Development against any loss or damage of any kind incident to or occasioned by activities undertaken in pursuance of this agreement and expressly agrees to defend any suit brought against the Department of Transportation & Development, and pay any judgement which may result from said suit as it relates to this project.

(SECRETARY) or (CLERK) (CHAIRMAN) or (PRESIDENT)

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of a resolution adopted at a (Regular) or (Special) meeting of the (Port Authority) held on this _____ day of _____, 19__ in which a quorum was present and voting and that the resolution adopted is still in effect and has not been rescinded or revoked.

Signed at _____ on the _____ day of _____, 19__.

(SECRETARY) or (CLERK)

APPENDIX B. DRAFT RESOLUTION FOR AWARDING A CONTRACT

STATE PROJECT NO. _____

PARISH OF _____

RESOLUTION

(Port Authority)

WHEREAS, the (Port Authority) has received bids on (Date of bid opening) on the (Project Name) port improvement project; and

WHEREAS, (Consulting Engineer) has recommended that award of contract be made to the lowest qualified bidder;

NOW, THEREFORE, BE IT RESOLVED by the (Port Authority) in (Regular) or (Special) session assembled on this _____ day of _____, 19__, acting pursuant to the recommendation of (Consulting Engineer) that the (bid) or (base bid plus additive alternate 1), (etc.) submitted by (Contractor) in the amount of $ (Contract Amount) be accepted and a contract be awarded to him.

BE IT FURTHER RESOLVED that (Chairman) or (President) be and is hereby authorized and empowered to enter into and execute a contract with (Contractor) for said work.

(SECRETARY) or (CLERK) (CHAIRMAN) or (PRESIDENT)

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of a resolution adopted at a (Regular) or (Special) meeting of the (Port Authority) held on this _____ day of _____, 19__ in which a quorum was present and voting and that the resolution adopted is still in effect and has not been rescinded or revoked.

Signed at _____ on the _____ day of _____, 19__.

(SECRETARY) or (CLERK)

Jude W. P. Patin
Secretary

RULE

Department of Wildlife and Fisheries
Office of Wildlife

The Department of Wildlife and Fisheries does hereby adopt the amended rule that determines those species that have been designated as endangered or threatened pursuant to the Federal Endangered Species Act. These species are deemed to be endangered or threatened under the provision of R.S. 56, Chapter 8, Part IV.

Title 76
WILDLIFE AND FISHERIES
Part I. Wildlife and Fisheries Commission and Agencies Thereunder

Chapter 3. Special Powers and Duties
Subchapter E. Louisiana Natural Heritage Program
§317. Threatened and Endangered Species Determination; Lists

The secretary of the Department of Wildlife and Fisheries hereby determines that those species designated as endangered or threatened pursuant to the Federal Endangered Species Act, are designated as such by the U.S. Fish and Wildlife Service at 50 CFR 17.11 (July 15, 1991; September 30, 1991; January 7, 1992). Based upon the above determination, said species, which are enumerated below, are deemed to be endangered or threatened species under the provisions of R.S. Title 56, Chapter 8, Part IV.

***

B. **REPTILES**

***

Leatherback Sea Turtle	*Dermochelys coriacea*	E

C. **MAMMALS**

***

Louisiana Black Bear	*Ursus americanus luteolus*	T

***

D. **INVERTEBRATES**

***

American Burying Beetle	*Nicrophorus americanus*	E
Inflated Heelsplitter	*Potamilus inflatus*	T

E. **FISH**

Pallid Sturgeon	*Scaphirhynchus album*	E
Gulf Sturgeon	*Acipenser oxyrhynchus desotoi*	T

***

E = Endangered
T = Threatened

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1904.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Wildlife, LR 15:1099 (December 1989), amended LR 18: (August 1992).

Joe Herring
Secretary

Notices of Intent

NOTICE OF INTENT
Department of Civil Service
Civil Service Commission

Application Rejection and Appeals

The State Civil Service Commission will hold a public hearing on September 2, 1992 to consider the following rule proposal and amendment. The hearing will begin at 8 a.m. and be held at the Department of Civil Service, Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana. The following are to be considered at the meeting:

PROPOSED RULE

7.5 Rejection of Application.

(a).- (c). ...

(d) An applicant whose application has been rejected or on whom a personnel action has been returned because of a determination that he does not meet the minimum qualifications for a job shall be afforded a reasonable opportunity to have his case reviewed by the director or the director's designated representative. The applicant shall request such a review by writing a letter to the director. The request must be made within 30 days of the original notification by forms CS-7 or CS-35. The director's decision shall be final in these matters unless there is an allegation that his ruling has been discriminatory.

Explantion. By policy and practice applicants have always been afforded an opportunity to have determinations about their qualifications reviewed. However, the department believes a specific rule governing this practice is desirable.

AMEND RULE 13.10 (f)

13.10 Appeals to the Commission

An appeal may be made to this Commission by

a. - e. ...

f. Any person who shall have applied for or been examined for the Classified Service, without having acquired permanent status therein, and who alleges discrimination in the review of his application, admission to an examination, scoring of examinations, the establishment of an eligible list or certification therefrom, or in the Director's decision under Rule 7.5 (d).

Explanation. Adding the phrase " . . . or in the director's decision under Rule 7.5 (d)", if the new rule proposal is adopted.

Persons interested in making comments relative to this proposal may do so at the public hearing or by writing to the Director of State Civil Service, Box 94111, Baton Rouge, Louisiana 70804-9111.

Herbert L Sumrall
Director

NOTICE OF INTENT

Department of Education
Board of Elementary and Secondary Education

Amendment to 8(g) Policy and Procedures Manual

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following amendments to the 8(g) Policy and Procedures Manual:

Section II: Support Fund Policy Activity Definitions

23. *Exemplary Program*—a model program or project which is worthy of imitation and which will provide the following results:

a. ample objective evidence of effectiveness;

b. stated objectives obtained;

c. educational needs of the students met; and

d. clear and attributable connection between treatment and effect.

Section IV: Part 162. Provisions Relative to Exemplary Programs in Elementary and Secondary Schools and Postsecondary Vocational-Technical Institutions

A. The program must clearly demonstrate that appropriate implementation will result in improved student achievement at the elementary/secondary level and/or improved vocational skills at the postsecondary vocational-technical level.

B. In the program there must be a clear correlation between the activities to be implemented and the results to be achieved.

Delete "C"

Interested persons may comment on this proposed rule until 4:30 p.m., October 8, 1992 at the following address: Eileen Bickham, 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: 8(g) Policy and Procedures Manual Amendment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs or savings to state or local governmental units associated with this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections of state or local governmental units associated with this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)

There are no costs or economic benefits to directly affected persons or nongovernmental units associated with this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment associated with this rule.

Carole Wallin
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Education
Board of Elementary and Secondary Education

Amendments to Bulletin 741

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved numerous amendments to Bulletin 741, Louisiana Handbook for School Administrators. These amendments were adopted as an emergency rule, effective June 26, 1992 and printed in full in the July, 1992 issue of the *Louisiana Register.*

Interested persons may comment on this proposed rule until 4:30 p.m., October 8, 1992 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Update of Bulletin 741

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERMENTAL UNITS(Summary)

Rule changes include requiring a full day kindergarten and a 330 minute day. School systems already comply with these provisions as per Revised Statute. Changes will provide for Bulletin 741 to comply with statute.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OP STATE OR LOCAL GOVERNMENTAL UNITS(Summary)

There is no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

John Guilbeau
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Education
Board of Elementary and Secondary Education

Bulletin 1706, Implementation of the Exceptional Children's Act

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following revisions to Bulletin 1706, Regulations for the Implementation of the Exceptional Children's Act, R.S. 17:1941 et seq., effective June 25, 1992.

These revisions were adopted as an emergency rule and printed in the July, 1992 issue of the *Louisiana Register*, and were approved to stabilize Special Educational Services for the 1992-93 school year for children who are, or may be disabled until the issues of special educational funding are addressed in the new Minimum Foundation Program in 1993-94. Special Educational Services are to remain status quo.

	Public Allotments Ratios Based on Teachers	Non-Public Allotments Ratios Based on Membership
Ed. Assessment Teachers	1:160 or major fraction thereof	1:3500 or major fraction therefore
School Psychologists	1:160 or major fraction thereof	1:3500 or major fraction therefore
Social Workers	1:210 or major fraction thereof	1:4500 or major fraction therefore

Pupil Appraisal operating expenses are a flat $7,500 plus $2.50 times the prior year's student membership. These funds are to be used exclusively for the support of the

operation of the pupil appraisal program which may include such expenditures as clerical, materials and supplies, test equipment and travel for pupil-appraisal staff. It is not for the hiring of personnel other than pupil appraisal clerical staff.

Interested persons may comment on this proposed rule until 4:30 p.m., October 8, 1992 at the following address: Eileen Bickham, 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: Addition to Bulletin 1706, Exceptional Children's Act

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule would maintain pupil appraisal personnel staff and allocated expenditures as they have been over a period of years, and specifically as allocated to local school systems during the 1991-92 school year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no additional estimated effects on revenue collections of state or local governmental Units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)

Estimated costs and/or economic benefits to directly affected persons or non-governmental groups would be in maintaining pupil appraisal personnel and operating expenses at the current levels of the 1991-92 school year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated there will be no effect on competition and employment since these categories and positions will remain status quo as of the 1991-92 school year.

John Guilbeau
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Education
Board of Elementary and Secondary Education

Bulletin 1895, Model Career Options Program (MCOP) Guide 92-93

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 revised Bulletin 1895, Model Career Options Program (MCOP) Guide FY 92-93. This guide was also adopted as an emergency rule and printed in full in the June, 1992 issue of the *Louisiana Register*.

Interested persons may comment on the proposed rule until 4:30 p.m., October 8, 1992 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

Fiscal and Economic Impact Statement
for Administrative Rules
Rule Title: Model Career Options Guide

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The total cost to the state will be approximately $4,900 to print and mail the revised guide.

II. ESTIMATED EFFECT ON REVENGE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no cost or savings to local governmental units resulting from the proposed action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)

There are no effects to local government funding.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment by this change.

John Guilbeau
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Education
Board of Elementary and Secondary Education

Bulletin 1903, The Louisiana Law for the Education of Dyslexic Students

In accordance with the R.S. 49:950 et seq, the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education proposes to adopt Bulletin 1903, the Louisiana Law for the Education of Dyslexic Students, regulations for the Implementation of R.S. 17:7(11). The bulletin was previously advertised as an emergency rule and printed in full in the January, 1992 *Louisiana Register*. The document was also printed as a notice of intent in the April, 1992 issue of the *Louisiana Register*, however, since that time, there were some clarifications made to language on page 11 that were considered substantive enough to warrant re-advertising the regulations. This revised Bulletin 1903 is also printed as an emergency rule in this August issue of the *Louisiana Register*.

Interested persons may comment on the proposed rule until 4:30 p.m., October 8, 1992 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Bulletin 1903 Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The state implementation costs of this rule are approximately $4,981,320. These costs include two levels of training and associated costs. Level one training of all 42,000 teachers is reguired because of federal and state laws regarding the education of handicapped (dyslexic) students within regular education. This awareness training regarding the legal reguirements and instructional strategies for assisting the dyslexic student will cost approximately $211,320. Level two training involves intensive training in a multi-sensory program which is required for dyslexic students. The cost of training for approximately 6000 teachers is $4,200,000. Approximately $70,000 in administrative costs will be paid through 8(g), as well as $500,000 also funded with 8(g) to LEAs for training. Clarifying language was added to R.S. 17:7(11) during the 1992 Legislative Session.

Note: The option presented for delivery of training in this fiscal statement represents one way of complying with federal and state requirements for services for dyslexic students within regular education. This option would allow local parishes to deliver training to teachers within the system based on their own individual choices of multi-sensory programs. Other options may be possible through a more centralized organization of training. The Department of Education is exploring other options which should result in lesser costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)

With enactment of this rule and appropriate funding, all dyslexic students will be provided with an appropriate multi-sensory regular education progam, in accordance with federal civil rights requirements. These students will become more successful citizens capable of contributing to the economies in districts throughout the state. These students will receive instruction appropriate to their needs. Local school systems will become more successful in meeting the needs of all students within their jurisdiction. In-service will be provided by LEAs. Local systems will be required to document the steps of the 5-step process. Forms and documentation must be provided in the student's cumulative records.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There may be increased job opportunities for certified and appropriately trained teachers. In addition, students who may otherwise have not graduated from high school should be able to obtain a diploma with the specialized instruction received in this program. This may result increased competition for employment and in students seeking higher levels of employment.

John Guilbeau
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Education
Board of Elementary and Secondary Education

Model Early Childhood Program Guidelines (FY 92-93)

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 the Model Early Childhood Program Guidelines for FY 92-93. These guidelines were also adopted as an emergency rule and printed in full in the July, 1992 issue of the *Louisiana Register*.

Interested persons may comment on this proposed rule until 4:30 p.m., October 8, 1992 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA, 70804-9064.

Carole Wallin
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Model Early Childhood Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

A cost of approximately $50 will be needed to defray the cost of reprinting and disseminating program regulation. Proposed rules would increase the number of children eligible to participate. This ruling would allow for existing vacancies to be filled. However, additional costs would be needed for new classes in areas where vacancies do not exist.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

These amended regulations would impact approximately 2,160 at-risk preschool students in 62 public school systems in the following ways:

1. The program's name change eliminates the labeling of students.
2. The broadening of the income eligibility requirements allows for greater student population to be served.
3. The option of operating a class with less than 16 students was deleted in order to be more cost effective.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on employment. The broadening of income eligibility may attract students who are eligible for other programs serving at-risk preschool children. If more classes were established, then there would be an increase in employment for teachers and aides.

John Guilbeau
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Education
Board of Elementary and Secondary Education

Federally Required Amendments to the Louisiana Annual Special Education Program Plan for FY 91-93

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the federally required amendments to the Louisiana Annual Special Education Program Plan for FY 91-93. These amendments were also adopted as an Emergency Rule and printed in full in the May, 1992 issue of the *Louisiana Register*.

Interested persons may comment on the proposed rule until 4:30 pm., October 8, 1992 at the following address: Eileen Bickham, 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: Federally Required Amendments
to FY 91-93 Special Education Program Plan

I. ESTIMATED IMPLEMENTAT1ON COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated cost to the state for printing and postage of the required amendments is $200.

II. ESTIMATED EFFECT ON AWE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

No cost or benefits are estimated from this proposed change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment from this proposed change.

John Guilbeau
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Education
Board of Elementary and Secondary Education

Technical Institute Name Change

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the board proposes to change the name of Southwest Louisiana Technical Institute, Crowley, to Acadian Technical Institute. This action, which is an amendment to the Louisiana Administrative Code, Title 28, was adopted as an emergency rule, effective July 1, 1992.

Interested persons may comment on the proposed rule until 4:30 p.m., October 8, 1992 at the following address: Eileen Bickham, 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: Technical Institute Name Change

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNIIS (Summary)

This is changing the name of Southwest Louisiana Technical Institute, Crowley, Louisiana to Acadian Technical Institute. The cost of this change will be to notify all concerned; to have the institute sign changed and when ordering new stationery have the name changed. The cost will be approximately $500.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of this action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no costs to persons or non-governmental groups for this action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition as a result of this action.

John Guilbeau
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Education
Board of Elementary and Secondary Education

Technical Institute Name Change

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 proposes to change the name of the Ville Platte Technical Institute to the Charles B. Coreil Technical Institute, effective July 1, 1992. This name change was also adopted as an emergency rule and printed in the July, 1992 issue of the *Louisiana Register*.

Interested persons may comment on this proposed rule until 4:30 p.m., October 8, 1992 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Technical Institute Name Change

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This is changing the name of Ville Platte Technical Institute, Ville Platte, Louisiana to Charles B. Coreil Technical Institute. The cost of this change includes notifying all concerned, changing the institute's sign, and ordering new stationery. The cost will be approximately $500.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of this action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no costs to persons or non-governmental groups for this action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition as a result of this action.

John Guilbeau
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT
Department of Education
Board of Elementary and Secondary Education

Temporary Employment Permit

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 the revised temporary employment permit as stated below. This revised policy was adopted as an emergency rule, effective June 25, 1992.

A temporary employment permit valid for one school year, will be granted to those candidates who meet the qualifying scores on the revised NTE in three out of four modules and whose aggregate score is equal to or above the total score on all four modules required for standard certification. All other standard certification requirements must be met.

When no area examination is required, a temporary employment permit will be granted to candidates who meet qualifying scores in two out of three modules of the Core Battery and whose aggregate score is equal to or above the total score on all three modules of the Core Battery required for certification. All other standard certification requirements must be met.

To employ an individual on a temporary employment permit, a local superintendent would be required to verify that no regularly certified teacher is available for employment. Names of the individuals employed on a temporary employment permit should be listed on the addendum to the annual school report with verification that no regularly certified teacher is available.

An individual can be reissued a permit under the board policy only if evidence is presented to the State Department of Education that the NTE has been retaken within one year from the date the permit was last issued. A temporary employment permit may be issued no more than five times.

Temporary employment permits will be issued at the request of individuals who meet all requirements for regular certification with the exception of the NTE scores. All application materials required for issuance of a regular certificate must be submitted to the Bureau of Higher Education and Certification with the application for issuance of a temporary employment permit.

This policy will remain in effect until July 1, 1995.

Interested persons may comment on this proposed rule until 4:30 p.m., October 8, 1992 at the following address: Eileen Bickham, 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: Temporary Employment Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The adoption of this amendment will cost the Department of Education approximately $50 (printing and postage) to disseminate the amended policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy amendment will have no effect on revenue collection.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNTAL GROUPS (Summary)

The amendment to this policy will authorize the issuance of teaching permits for three additional years to certain individuals who are not yet eligible for a standard teaching certificate. Previous policy allowed the issuance of only two temporary, employment permits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will allow individuals who are eligible for teaching permits to he issued a permit for a total of five years rather then two years according previous policy. It will also provide additional individuals who are eligible for employment.

John Guilbeau
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Education
Student Financial Assistance Commission
Office of Student Financial Assistance

Louisiana Employment Opportunity Loan Program

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance,

announces its intention to adopt rules to regulate the Louisiana Employment Opportunity (LEO) Loan Program. The adopted rules so adopted shall regulate the program and comprise the Louisiana Employment Opportunity Loan Program Policy and Procedure Manual.

A copy of the manual can be obtained from the Office of the State Register, 1051 Riverside North, Room 512, Baton Rouge, LA 70804 or it can be viewed from 7:45 am. to 4:30 pm., Monday through Friday at the Office of Student Financial Assistance, 1885 Wooddale Boulevard, Baton Rouge, LA 70806.

Interested persons may submit written comments on the regulations until 4:30 pm., October 20, 1992, at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

Fiscal and Economic Impact Statement
for Administrative Rules
Rule Title: Louisiana Employment Opportunity Loan Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

First year administrative cost to implement the Act will total $190,905. A reserve fund of $500,000 is expected to cover loan loss during the three year pilot program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Louisiana Employment Opportunity Loan Program will generate approximately $373,230 during fiscal year 1992-93 through the guarantee and origination fee on loans disbursed and from recovery on defaulted loans.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Trainee/employees participating in the program will be provided loans to pursue training, successful completion of which will result in employment.

Local communities and the state will ultimately profit from this program as a result of the expanded tax base created by the generation of new jobs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The risks assumed by all parties in implementing this program are judged to be worthwhile in view of the benefits to the state and its citizens from the diversification and stimulation of the state's economy resulting from a successful program.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Financial Assistance

Louisiana Honors Scholarship

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, announces its intention to adopt rules to implement the Louisiana Honors Scholarship Program. The current Section VII of the Scholarship/Grant Policy and Procedure Manual will be moved and designated Section VIII. A new Section VII will be inserted to provide rules to implement the Louisiana Honors Scholarship Program. The text of these proposed rules may be viewed in their entirety in the emergency rule section of this issue of the *Louisiana Register.*

Interested persons may submit written comments on the proposed rules until 4:30 p.m., October 20, 1992, to: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

Fiscal and Economic Impact Statement
for Administrative Rules
Rule Title: Louisiana Honors Scholarship Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Estimated implementation costs to administer the program are approximately $61,000, which includes personal services for one full-time position and allocated salary for in-house programming staff. Also included in the implementation costs are funds for operating services, minimal office furniture and equipment and computer processing time. First year scholarship awards are limited to funds appropriated in the amount of $1,839,000. Total costs anticipated for FY 1992-93 are $1,900,000; for FY 93-94, $3,722,578; and for FY 94-95, $5,563,754.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The program is funded through state general funds.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Top high school graduates in Louisiana will be honored and rewarded for their academic achievement and assured financial resources to pursue higher education in a Louisiana college or university.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated from implementation of this program.

Jack L. Guinn
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Environmental Quality
Office of Solid and Hazardous Waste

Non-HWSA Cluster IV-A (HW34)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with

the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Regulations, LAC 33:V.Subpart 1, (HW34).

These amendments will allow the state to satisfy its continuing obligation to the United States Environmental Protection Agency (USEPA) in maintaining a program at a minimum equivalent to that of EPA. This will allow the state to meet all requirements concerning the authorization process, which will effectively ensure grant support funds. This proposed rule also amends LAC 33:V.1305 in an attempt to clarify the requirements for transfer facility status. LAC 33:V.5139 was inadvertently deleted from the hazardous waste regulations on July 20, 1992, and is being reintroduced in this proposed rule which will result in this regulation not being in effect for a period of four months.

These proposed regulations are to become effective on November 20, 1992, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on September 24, 1992, at 1:30 p.m. in the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than September 25, 1992, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA, 70810. Comments should reference this proposed regulation by Log HW34. This proposed regulation may be obtained through the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802 and is available for inspection at the following locations from 8 a.m. until 4:30 p.m.:

Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810;

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203;

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101;

Department of Environmental Quality, 3519 Patrick Street, Lake Charles, LA 70605;

Department of Environmental Quality, 3945 North I-10 Service Road West, Metairie, LA 70002;

Department of Environmental Quality, 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III
Assistant Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Non-HSWA cluster IV-A (HW34)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No additional cost to state or local government is anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no significant effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no significant costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no significant effect on competition or employment.

Glenn Miller
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Office of the Governor
Office of Elderly Affairs

Long-Term Care

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend the GOEA Policy Manual, effective November 20, 1992. This rule is necessary to implement the Louisiana Long-Term Care Assistance program which was established by R.S. 40:2801 and 2802 during the 1992 Regular Session of the Louisiana Legislature. An emergency rule to implement this program was published in the July 20, 1992 issue of the *Louisiana Register* (Vol. 18, No. 7).

Under the Louisiana Long-Term Care Assistance program, individuals with net incomes below $60,000 in long-term care facilities (nursing homes and intermediate care facilities for the mentally retarded) who do not have insurance or other health care coverage plans that cover the cost of institutional services provided, will receive partial reimbursement of the cost incurred to receive these services. Reimbursement of expenses incurred by individuals in long-term care facilities shall be $350 per month.

Title 4
ADMINISTRATION
Part VII. Governor's Office
Chapter 11. Elderly Affairs
Subchapter E. Uniform Service Requirements
§1237. Long-Term Care Assistance Program

A. Purpose. The Louisiana Long-Term Care Assistance program is designed to help defray the expenses incurred by individuals and families as a result of the rising cost of long-term care services resulting from expanded facility requirements mandated by federal law.

B. Definitions. As used in this Section, the following terms shall have the following meanings:

Agency—the office of elderly affairs in the office of the governor.

Director—the executive director of the office of elderly affairs.

Gross Income—shall be defined as adjusted gross income as provided by the federal income tax return.

Long-term Care—care rendered to a resident of a facility

licensed and certified by the Department of Health and Hospitals as a nursing home in accordance with R.S. 40:2009.3 et seq. or as an intermediate care facility for the mentally retarded in accordance with R.S. 28:421 et seq.

Net Income—gross income less:

a. any non-reimbursed health care expenses including long-term care services, personal care attendants, adaptive medical equipment, and other medical services recognized under state law;

b. federal and state taxes paid including income, property, and inheritance taxes; and

c. any health insurance premiums paid.

C. Administration of the Program

1. The Louisiana Long-Term Care Assistance program shall be administered by the office of elderly affairs. The program shall be subject to the availability, appropriation, and allocation of funds for the program.

2. The agency may seek private grants, federal funds, and any other revenue source for the operation of the program.

3. The agency may engage a fiscal intermediary to assist in the management and administration of the program.

4. The agency shall adopt and promulgate such rules and regulations as are necessary to administer the program.

D. Eligible Participants. Participation in the program shall be limited to residents of the state of Louisiana who meet all of the following criteria:

1. the individual is a patient in a facility licensed as: a nursing home in accordance with R.S. 40:2009.3 et seq., or licensed as an intermediate care facility for the mentally retarded in accordance with R.S. 28:421 et seq.;

2. payment of nursing home or ICF-MR services is not being made by any insurance or other health care coverage plan; and

3. the individual has a net income for the prior calendar year of less than $60,000 or a joint net income of less than $120,000.

E. Program Benefits

1. The benefits under the program shall be $350 per month for incurred medical expenses for long-term care services.

2. Reimbursement payments shall be made on a monthly basis to eligible participants at the facilities where they reside. Payments shall not be forwarded to any other address. Where the participant has moved, the check shall be returned to the Governor's Office of Elderly Affairs.

3. Participants who move from one facility to another shall immediately notify the Governor's Office of Elderly Affairs of the change in address to prevent interruption of reimbursement.

F. Application for Reimbursement

1. Any individual residing in a long-term care facility, as defined in Subsection C of this Section, may request reimbursement of medical expenses by making application to the Governor's Office of Elderly Affairs.

2. Approved application forms shall be made available through nursing homes, ICF-MR facilities, and the Governor's Office of Elderly Affairs.

G. Eligibility Determinations

1. The agency shall provide each applicant for reimbursement of incurred medical expenses with written notification regarding the determination of eligibility.

2. Prior to making a final determination, the agency shall return applications which are incomplete or questionable (i.e., expenses reported exceed all income) for additional information.

H. Appeal Procedures

1. Applicants for reimbursement of incurred medical expenses shall be afforded the right to appeal any adverse decision on the basis of additional information or administrative error. The appeal must be in the form of a request for a hearing as outlined in LAC 4:VII.1275.

2. The agency shall make every effort to resolve disputes informally prior to proceeding with a formal hearing.

Subchapter F. Hearing Procedures

§1275. Hearing Procedures for Persons Filing Appeals in the Long-Term Care Assistance Program

A. Right to a Hearing. The Governor's Office of Elderly Affairs shall provide an opportunity for a hearing and issue a written decision to any applicant for reimbursement of incurred medical expenses whose application is denied and who files an appeal in accordance with LAC 4:VII.1235.G.1.

B. Request for Hearing

1. A request for hearing must be received by the Governor's Office of Elderly Affairs within 30 days following applicant's receipt of the written notification of adverse decision from the agency.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the agency's decision is appealed. The request must include:

a. the basis upon which petitioner refutes the agency's decision (i.e., additional information or administrative error); and

b. a specific statement of the suspected administrative error; and\or

c. additional information which the agency should consider in rendering a decision, including, but not limited to the following:

i. the dates of all relevant actions; and

ii. the names of individuals, agencies or organizations who may be able to substantiate the petitioner's claim.

C. Administrative Review of Adverse Decision

1. Upon receipt of a request for a hearing pursuant to Subsection B, above, the administrator of the Long-Term Care Assistance program shall investigate the allegation stated in the request; consider the additional information provided by the petitioner; and issue a written decision within 30 days.

2. The written decision shall inform the petitioner of the findings of the investigation, the actions to be taken, if any, as a result of the investigation, and the provisions for appealing the decision to the director.

3. If the program administrator fails to respond or to act upon an appeal within 30 days, or if dissatisfied with the results of the administrative review, the petitioner may refer the request for a hearing to the director.

D. Notice of Hearing

1. Upon receipt of a request for hearing, the director shall, within 10 working days, set a date for the hearing.

2. The Governor's Office of Elderly Affairs shall issue a written notice to the petitioner and other interested persons which shall include:

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

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

c. a reference to the particular section of statutes,

regulations, and rules involved; and

d. a short and plain statement of the reasons for the decision that is being appealed and the evidence on which the decision was based.

3. Petitioner shall be given no less than 10 working days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

E. Hearing Examiner

1. The director or his/her designated representative shall be the hearing examiner and preside at the hearing, subject to the provisions of R.S. 49:960. The hearing examiner shall have authority to administer oaths, rule on motions and the admissibility of evidence, to recess any hearing from time to time, and rule on such other procedural motions as may be presented by the program administrator or the petitioner.

2. The hearing examiner shall conduct the hearing in accordance with the procedures outlined herein and render a fair decision.

F. Rules of Evidence

1. In hearings under these rules, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the district courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objection to evidentiary offers may be made and shall be noted in the record.

2. Documentary evidence may be received by the hearing examiner in the form of a copy or excerpt if the original is not readily available. On request, either party shall be given an opportunity to compare the copy with the original.

3. If a hearing will be expedited and the interests of parties will not be prejudiced substantially, any part of the evidence may be received in written form or the parties may stipulate as to facts or circumstances or summarize same.

4. Either party may conduct cross-examination required for a full and true disclosure of the facts.

5. Official notice may be taken by the hearing examiner of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of the Governor's Office of Elderly Affairs' specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data; and afforded an opportunity to contest the material so noticed. The special skills or knowledge of the Governor's Office of Elderly Affairs and its staff may be utilized in evaluating the evidence.

6. Formal exceptions to rulings of the hearing examiner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearing examiner, the action desired. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review. The hearing examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof.

G. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or his representative shall be governed by R.S.49:960 of the Louisiana Administrative Procedure Act.

H. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956 (5)-(8) of the Louisiana Administrative Procedure Act.

I. Hearing. The procedure to be followed for hearings held under §1275 shall be as provided in §1267.J.

J. Transcript. The rules governing transcripts for hearings held under §1275 shall be as provided in §1267.K.

K. Final Decision. All decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. A copy of the decision shall be sent immediately to the applicant by registered or certified mail, return receipt requested. A copy of the decision shall also be sent to any other persons directly affected by the decision.

L. Rehearing and Appeal. Procedures for rehearings and appeals shall be governed by R.S. 49:959 and 965.

M. Record. The record in a hearing under this Section shall consist of the materials listed in §1267.M.

A public hearing on this proposed rule will be held on Tuesday, September 29, 1992 in the GOEA Conference Room, 4550 North Blvd., Second Floor, Baton Rouge, LA at 1:30 p.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Interested persons may submit written comments to the following address: Mrs. Betty Johnson, Planning/Development Manager, Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374. She is the person responsible for responding to inquiries concerning this proposed rule. Comments will be accepted until 5 p.m., October 1, 1992.

James R. Fontenot
Director

Fiscal and Economic Impact Statement
for Administrative Rules
Rule Title: Louisiana Long-Term Care

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated cost to implement the Louisiana Long-Term Care Assistance Program during the current fiscal year is $20,845,278. The funds have been appropriated by the State Legislature.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Under the Louisiana Long-Term Care Assistance program, individuals with net incomes below $60,000 in long-term care facilities (nursing homes and intermediate care facilities for the mentally retarded) who do not have insurance or other health care coverage plans which cover the cost of

institutional services provided, will be reimbursed $350 per month to help cover the cost incurred to receive these services. It is estimated that approximately 4,900 individuals will receive this assistance.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Office of Elderly Affairs shall require two additional fulltime staff members to administer the program.

James R. Fontenot
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Board of Chiropractic Examiners

Continuing Education and General Practice

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

TITLE 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXVII. Chiropractors

Chapter 1. Practice and Procedure

§103. Election of Officers

* * *

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

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

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

Chapter 3. Professional Conduct

§302. Surrogate Muscle Testing

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 18:

§304. HIV/HBV Precautions

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 18:

§318. Specialty Register

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 18:

§319. Continuing Education-Risk Management

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 18:

Inquiries and comments may be made to Dr. John Booth, 5800 One Perkins Place, Suite 5C, Baton Rouge, LA, 70808.

Interested persons may present their views at a public hearing on September 28, 1992 at 10 a.m. at the above address in Baton Rouge, LA.

Dr. Donald Marks
Board President

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Board of Examiners, Continuing Education and the General Practice

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs other than the costs of printing and publication.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Any costs and/or economic benefits to affected persons are not quantifiable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Donald Marks
Board President

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Out-of-State Pharmacy

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and Pharmacy Law R.S. 37:1178, the Louisiana Board of Pharmacy hereby gives its notice of intent to adopt and/or amend the rules and regulations as detailed below.

The board intends to amend LAC 46:LIII.Chapter 23, Out-of-State Pharmacy.

TITLE 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
PART LIII. PHARMACISTS

Chapter 23. Out-of-State Pharmacy

§2301. Out-of-State Pharmacy Requirements

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

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

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

§2303. Permit

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

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

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

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

§2305. Pharmacy Permit

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

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

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

§2307. Applicable Laws and Regulations

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

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

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

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

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

§2309. Reporting

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

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

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

§2311. Inspection

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

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

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

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

§2313. Records

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

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

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

§2315. Counseling Services

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

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

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

§2317. Jurisdiction

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

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

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

§2319. Agent

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

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

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

Any person may, submit data, views or positions orally or in writing to the Board of Pharmacy, 5615 Corporate Boulevard, Suite 8-E, Baton Rouge, LA 70808, or call 504-925-6496. Under the provisions of the Administrative Procedure Act, if a public hearing is necessary it will be held at 8 a.m., Wednesday, September 23, 1992, in the Camelia Room of the Sheraton Baton Rouge Hotel, 4728 Constitution Avenue, Baton Rouge, LA.

Howard B. Bolton
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Out-of-State Pharmacy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The original cost of implementing, printing and mailing the necessary regulation and applications is estimated at $5,000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that 100 out-of-state pharmacies will be required to obtain a Louisiana permit at $125 per year, or $12,500 annual revenues collected for the state.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affect persons or non-governmental groups, as Act No. 630, §2704B states that, "in no instance shall such rules and regulations be more restrictive than rules or regulations applicable to in-state pharmacies."

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

State law has required out-of-state pharmacies doing business in Louisiana to obtain a Louisiana permit and abide by state laws since 1985. Act 630 of 1992 requires the same permit, however, it goes further and states that any rules promulgated may be no more restrictive on out-of-state pharmacies than on in-state pharmacies. Since the out-of-state pharmacies will not be required do any more than they should be doing now, there should be no effect on competition or employment.

Howard B. Bolton
Executive Director

David W. Hood
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Patient Counseling, LAC 46:LIII.913 and 915

In accordanance with the provisions of the Adminstrative Procedure Act, R.S. 49:950, et seq., and Pharmacy Law R.S. 37:1178, the Board of Pharmacy hereby gives its notice of intent to amend its rules and regulations as detailed below.

The board intends to amend LAC 46:LIII.913 and adopt Section 915. The patient counseling and prospective drug review proposals will meet the requirements of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90) and the support staff proposal will allow improved efficiency in the use of pharmacists and pharmacy personnel.

TITLE 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
PART LIII. Pharmacists

Chapter 9. Pharmacies

§913. Prescription Dispensing

A. Definitions

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

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

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

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

§915. Patient Counseling

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

medications and devices.

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

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

D. *Minimum requirements*—at the minimum, the pharmacist must, as a result of counseling, be convinced that the patient or caregiver is cognizant of the following:

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

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

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

1. name, address, telephone number;
2. date of birth (age), gender;
3. medical history;

a. disease state(s);
b. allergies/drug reactions;
c. current list of medications and devices;

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

d. Communication to the patient.

i. a pharmacist shall counsel the patient or caregiver "face to face" when possible or appropriate. If this is not possible, a pharmacist shall make a reasonable effort to counsel the patient or caregiver;

ii. alternative forms of patient information may be used to supplement patient counseling;

iii. patient counseling, as described in this regulation shall also be required for outpatient and discharge patients of hospitals and institutions where applicable;

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 18:

Any person may submit data, views or positions orally or in writing to the Louisiana Board of Pharmacy, 5615 Corporate Boulevard, Suite 8-E, Baton Rouge, LA 70808, or call 504-925-6496. Under the provisions of the Administrative Procedure Act, if a public hearing is necessary it will be held at 8 a.m., Wednesday, September 23, 1992, in the Camelia Room of the Sherton Baton Rouge Hotel, 4728 Constitution Avenue, Baton Rouge, LA.

Howard B. Bolton
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Patient Counseling

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the publication and notification costs will be $5000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This regulation will require pharmacists to maintain patient profiles and counsel patients on the use of their medications for all prescriptions. Any costs to the pharmacists will be offset by enhanced utilization of medications by the public.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This regulation should have no effect on competition or employment.

Howard B. Bolton
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Pharmacy Support Staff

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and Pharmacy Law R.S. 37:1178, the Board of Pharmacy hereby gives its notice of intent to amend its rules and regulations as detailed below.

The board intends to adopt LAC 46:LIII.919, Pharmacy Support Staff and Supportive Personnel.

The Patient Counseling and Prospective Drug Review proposals will meet the requirements of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90) and the support staff

proposal will allow improved efficiency in the use of pharmacists and pharmacy personnel.

TITLE 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
PART LIII. Pharmacists

Chapter 9. Pharmacies

§919. Pharmacy Support Staff And Supportive Personnel

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

A. Definitions.

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

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

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

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

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

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

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

C. Supervision

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

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

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

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

1. retrieve prescriptions or files as necessary;

2. clerical tasks such as typing labels and maintaining patient profiles;

3. secretarial tasks such as telephoning, filing, and typing;

4. accounting tasks such as record keeping, maintaining accounts receivables, third party reimbursements, and posting;

5. inventory control tasks including monitoring, pricing, dating, invoicing, stocking pharmacy, and preparation of purchase orders;

6. help maintain a clean and orderly pharmacy;

7. request, receive and record prescription refill information;

8. retrieve medications for prescriptions;

9. count and/or pour medications;

10. prepackage and properly label medications;

11. affix the prescription label to the proper container;

12. affix auxiliary labels to the container as directed by the pharmacist.

E. Prohibitive duties—these duties must be performed by the pharmacist and may not be performed by support staff persons:

1. the pharmacist must receive and interpret the original prescription;

2. the pharmacist must accomplish all compounding;

3. the pharmacist must prepare I.V., enteral or other sterile medications;

4. the pharmacist must order, stock, dispense, and perform any other physical task involving controlled dangerous substances in Schedules I and II;

5. the pharmacist must review the completed prescription for accuracy and compliance before the prescription is released from the prescription department; and

6. the pharmacist must provide patient counseling or drug information as necessary.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 18:

Any person may submit data, views or positions orally or in writing to the Louisiana Board of Pharmacy, 5615 Corporate Boulevard, Suite 8-E, Baton Rouge, LA 70808, or call (504) 925-6496. Under the provisions of the Administrative Procedure Act, if a public hearing is necessary it will be held at 8 a.m., Wednesday, September 23, 1992, in the Camelia Room of the Sheraton Baton Rouge Hotel, 4728 Constitution Avenue, Baton Rouge, LA.

Howard B. Bolton
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Pharmacy Support Staff

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the printing and implementation costs will be $1000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Pharmacists will be able to utilize support staff personnel to relieve them of regular, routine non-judgmental, mechanical and non-discretionary tasks.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This regulation will allow pharmacists to employ supportive personnel to work in the pharmacies. There should be no effect on competition.

Howard B. Bolton
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Prospective Drug Review, LAC 46:LIII.917

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and Pharmacy Law R.S. 37:1178, the Louisiana Board of Pharmacy hereby gives its notice of intent to adopt LAC 46:LIII.917, Prospective Drug Review.

The patient counseling and prospective drug review proposals will meet the requirements of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90) and the support staff proposal will allow improved efficiency in the use of pharmacists and pharmacy personnel.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
PART LIII. Pharmacists

Chapter 9. Pharmacies

§917. Prospective Drug Review

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 18:

Any person may submit data, views or positions orally or in writing to the Louisiana Board of Pharmacy, 5615 Corporate Boulevard, Suite 8-E, Baton Rouge, LA 70808, or call 504-925-6496. Under the provisions of the Administrative Procedure Act, if a public hearing is necessary it will be held at 8 a.m., Wednesday, September 23, 1992, in the Camelia Room of the Sheraton Baton Rouge Hotel, 4728 Constitution Avenue, Baton Rouge, LA.

Howard B. Bolton
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Prospective Drug Review

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

If this proposal is implemented with the Patient Counseling and Support Staff Personnel proposed regulations, there will be no additional costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is estimated that there will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that there will be no effect on competition and employment.

Howard B. Bolton
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Board of Practical Nurse Examiners

Notice is hereby given that the Louisiana State Board of Practical Nurse Examiners, under the authority imposed in R.S. Title 37, Chapter 11, Nurses Subpart 1, Practical Nurses, Sections 961-979, in compliance with Act 1009, 1991, plans to adopt the administrative rules and minimum requirements relating to practical nursing education and licensure to practice in the state of Louisiana, LAC 46:XLVII.308 at its meeting in February, 1993.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLVII. Nurses
Subpart 1. Practical Nurses

Chapter 3. Preventing Transmission of Hepatitis B Virus (HBV) and Human Immunodeficiency Virus (HIV) to Patients During Exposure-Prone Invasive Procedures

§308. Definitions

A. As used in this Chapter, the following terms shall have the meaning specified:

1. *Board* - Louisiana State Board of Practical Nurse Examiners.

2. *Exposure-Prone Procedure* - an invasive procedure in which there is an increased risk of percutaneous injury to the practitioner by virtue of palpation of a needle tip or other sharp instrument in a body cavity or the simultaneous presence of the practitioner's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site, or any other invasive procedure in which there is a significant risk of contact between the blood or body fluids of the practical nurse and the blood or body fluids of the patient.

3. *Function Ancillary to an Invasive Procedure* - The preparation, processing, handling of blood, fluids, tissue or instruments which may be introduced into or come into contact with any body cavity, internal organ, subcutaneous tissue, submucosal tissue, mucous membrane or percutaneous wound of the human body in connection with the performance of an invasive procedure.

4. *HBV* - The term HBV means the Hepatitis B Virus.

5. *HBV Seronegative* - A condition where one has been HBV seropositive but is no longer infectious under the criteria of the Federal Centers for Disease Control or the Association of State and Territorial Public Health Laboratory Directors.

6. *HBV Seropositive* - A condition where one has developed antigens sufficient to diagnose seropositivity to HBV evidencing infectability under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors.

7. *HIV* - The term HIV means the human immunodeficiency virus.

8. *HIV Seropositive* - A condition where one has developed antibodies sufficient to diagnose seropositivity to HIV under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors.

9. *Invasive Procedure* - any surgical or other diagnostic or therapeutic procedure involving manual or instrumental contact with or entry into any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane, or percutaneous wound of the human body.

10. *Practical Nurse* - A licensed practical nurse and/or a practical nursing student/graduate.

11. *Universal Precautions* - The term "universal precautions" means those generally accepted infection control practices, principles, procedures, techniques and programs as recommended by the Federal Centers for Disease Control to minimize the risk of transmission of HBV or HIV from a practical nurse to a patient, from a patient to a practical nurse, or a patient to a patient, as such recommendations may be amended or supplemented from time to time.

B. Universal Precautions. All practical nurses must at all times comply with the universal precautions set forth below:

1. All practical nurses should routinely use appropriate barrier precautions to prevent skin and mucous-membrane exposure when contact with blood or other body fluids of any patient is anticipated. Gloves should be worn for touching blood and body fluids, mucous membranes, or non-intact skin of all patients, for handling items or surfaces soiled with blood or body fluids and for performing venipuncture and other vascular access procedures. Gloves should be changed after contact with each patient. Masks and protective eyewear or face shields should be worn during procedures that are likely to generate droplets of blood or other body fluids to prevent exposure of mucous membranes of the mouth, nose and eyes. Gowns or aprons should be worn during procedures that are likely to generate splashes of blood or other body fluids.

2. Hands and other skin surfaces should be washed immediately and thoroughly if contaminated with blood or other body fluids. Hands should be washed immediately after gloves are removed.

3. All practical nurses should take precautions to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures; when cleaning used instruments; during disposal of used needles; and when handling sharp instruments after procedures. To prevent needlestick injuries, needles should not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades and other sharp items should be placed in puncture-resistant containers for disposal; the puncture resistant containers should be located as close as practical to the use area. Large bore reusable needles should be placed in a puncture container for transport to the reprocessing area.

4. To minimize the need for emergency mouth-to-mouth resuscitation, a practical nurse shall ensure that mouthpieces, resuscitation bags, or other ventilation devices are available for use in areas in which the need for resuscitation is predictable.

Implementation of universal blood and body-fluid precautions for all patients eliminates the need for use of the isolation category of "Blood and Body Fluid Precautions" previously recommended by CDC (7) for patients known or suspected to be infected with blood-borne pathogens. Isolation precautions (e.g., enteric, "AFB" [7]) should be used as necessary if associated conditions, such as infectuous diarrhea or tuberculosis, are diagnosed or suspected.

5. Precautions for dialysis.

a. Patients with end-stage renal disease who are undergoing maintenance dialysis and who have HIV infection can be dialyzed in hospital-based or free-standing dialysis units using conventional infection-control precautions (21). Universal blood and body-fluid precautions should be used when dialyzing all patients.

b. Strategies for disinfecting the dialysis fluid pathways of the hemodialysis machine are targeted to control bacterial contamination and generally consist of using 500-750 parts per million (ppm) of sodium hypochlorite (household bleach) for 30-40 minutes or 1.5 - 2.0 percent formaldehyde overnight. In addition, several chemical germicides formulated to disinfect dialysis machines are commercially available. None of these protocols or procedures need to be changed for dialyzing patients infected with HIV.

c. Patients infected with HIV can be dialyzed by either hemodialysis or peritoneal dialysis and do not need to be isolated from other patients.

d. The type of dialysis treatment (i.e., hemodialysis or peritoneal dialysis) should be based on the needs of the patient. The dialyzer may be discarded after each use. Alternatively, centers that reuse dialyzers, i.e., a specific single-user dialyzer is issued to a specific patient, removed, cleaned, disinfected, and reused several times on the same patient only, may include HIV-infected patients in the dialyzer use program. An individual dialyzer must never be used on more than one patient.

C. Prohibitions and Restrictions. Except as may be permitted pursuant to Subsection D. 1 and 2 of this Chapter, a practical nurse who is seropositive for HIV or HBV, or who otherwise knows or should know that he or she carries and is capable of transmitting HBV or HIV, shall not thereafter perform or participate directly in an exposure-prone procedure.

D. Exceptions To Prohibitions Placed Upon Infected Practical Nurses. Notwithstanding the prohibition of Subsection C hereof, a practical nurse who has tested positive for the human immunodeficiency virus and the hepatitis B virus may engage in any exposure-prone procedures or participate in invasive procedures if:

1. the medical condition of the seropositive practical nurse has been reviewed and the licensee has been approved for practice to include invasive and exposure prone procedures by the board; or the practical nurse has affirmatively advised the patient or the patient's lawfully authorized representative that the practical nurse has tested positive for the human immunodeficiency virus or the hepatitis B virus;

2. the patient or the patient's lawfully authorized representative has been advised of the risk of the practical nurse's transmission of the human immunodeficiency virus and/or the hepatitis B virus to the patient during the exposure prone procedure and such information is communicated personally to the patient or the patient's lawfully authorized representative by a licensed physician.

3. the patient or the patient's lawfully authorized representative has subscribed a written instrument setting forth:

a. the exposure prone procedure to be performed by the practical nurse with respect to the patient;

b. an acknowledgement that the advice required by Subsection D. 1 and 2 of this section have been given and understood by the patient's lawfully authorized representative; and

c. the consent of the patient or the patient's lawfully authorized representative to the performance of or participation in the designated procedure by the practical nurse; and

d. the practical nurse's positive testing for the human immunodeficiency virus and/or hepatitis B virus has been affirmatively disclosed to each practical nurse or other practical nurse personnel who may participate or assist in the exposure prone procedure.

4. Consent given pursuant to Paragraph 2 of Subsection E may be revoked by a patient or the patient's lawfully authorized representative at any time prior to the performance of the subject procedure by any verbal or written communication to the practical nurse expressing an intent to revoke, rescind or withdraw such consent.

E. Self-Reporting

1. Any practical nurse who in the course of practice may at any time undertake to perform or participate in an exposure prone procedure and who is or becomes aware that he or she is HBV seropositive and/or HIV seropositive shall be required to give notice of such seropositivity to the board by mailing such notice to the executive director of the board, marked "Personal and Confidential" by registered or certified mail.

2. Within 90 days of the effective date of this Chapter, a practical nurse who has been previously diagnosed as HBV seropositive and/or HIV seropositive shall give notice of such diagnosis to the board by mailing such notice to the executive director of the board, marked "Personal and Confidential" by registered or certified mail.

3. Within 30 days from the date on which a diagnostic test was performed which produced results indicating that a practical nurse is HBV seropositive and/or HIV Seropositive, the practical nurse shall give notice of such diagnosis to the board by mailing such notice to the executive director of the board, marked "Personal and Confidential" by registered or certified mail.

4. An applicant for licensure or certification as a practical nurse who has been previously diagnosed as HBV seropositive and/or HIV seropositive shall acknowledge such diagnosis marked in a separate written statement submitted directly to the executive director of the board marked "Personal and Confidential" by certified mail at the time of application.

F. Retesting of Health Care Workers Whose Practices Are Modified Because of HBV Status. The Louisiana State Board of Practical Nurse Examiners recommends that those practical nurses who are precluded from performing or participating in exposure prone procedures because they are seropositive for HBV are urged to re-test on a periodic basis to determine whether their status has changed due to a resolution of the infection or as a result of treatment.

G. Confidentiality. Each report submitted to the Louisiana State Board of Practical Nurse Examiners pursuant to Subsection E, as well as each record maintained relating thereto and each meeting of the Louisiana State Board of Practical Nurse Examiners held in the course of monitoring a licensee or applicant for compliance with Subsection E is confidential and exempt from public records by virtue of R.S. 44:4(7), (9) and (11), except for the purpose of investigation or prosecution of alleged violations of R.S. 37:1746 and 1747, and this rule, by the Louisiana State Board of Practical Nurse Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 (B) (4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:

All interested persons are invited to submit written comments on the proposed rule. Such comments should be submitted no later than December 1, 1992 to Terry L. De Marcay, Executive Director, 1440 Canal Street, Suite 1722, New Orleans, LA, 70112.

Terry L. De Marcay
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Practical Nursing Education and Licensure to Practice in the State of Louisiana
LAC 46:XLVII. 308

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rules will result in any additional cost to the Board of Practical Nurse Examiners.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rules will have any effect on the board's collection of revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is not anticipated that implementation of the proposed rules will result in any significant cost, paper work or workload of practical nurses who may engage in involved procedures. The rules could have an adverse impact on practitioner revenue; however there is no reliable data to support an estimate.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules will have any material impact on competition or employment in either the public or private sector.

Terry L. De Marcay
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

The Department of Health and Hospitals, Office of Public Health, Epidemiology Section, proposes to adopt policies and procedures by which non-federal medical facilities may be approved as official Yellow Fever Vaccination Centers, and to provide for the reporting of diseases by health professional persons, who do not now report diseases.

Interested persons may submit written comments on the proposed rule until September 15, 1992 at the following address: Larry J. Hebert, M.D., Assistant Secretary, Office of Public Health, Department of Health and Hospitals, 8550 United Plaza Boulevard, Baton Rouge, LA 70808.

Copies of the proposed rule may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, La 70802.

J. Christopher Pilley
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Certification Procedures for Official Yellow Fever Vaccination Centers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs to the state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment.

Larry Hebert, M.D.
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Registration of Children Born Outside of Hospital

In accordance with the Administrative Procedure Act, as amended, the Department of Health and Hospitals, office of Public Health intends to amend Title 48, Part V. Subpart 45., Chapter 123 of the Louisiana Administrative Code by revising §12305. The amendment provides requirements for the registration of out-of-hospital births. Promulgation of the rule is authorized by R.S. 40:33(C).

Title 48
PUBLIC HEALTH - GENERAL
Part V. Preventive Health Services
Subpart 45. Vital Records
Chapter 123. Preparation of Certificates
§12305. Requirements for Registration of Children Born outside of Hospitals

A. In addition to the requirements set forth in R.S. 40:45B, the registration of children born outside of hospitals by persons other than Louisiana licensed physicians and midwives shall occur at the parish health unit with the person who attended the birth appearing in proper person. Physicians and midwives listed on the current official list of licensed physicians and midwives promulgated by the Board of Medical Examiners may register births by mail.

B. After six months from the date of birth, the registration of children born outside of hospitals shall conform to the requirements of LAC 48:V.11115.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:33C.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health, LR 13:246 (April 1987). Repromulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:

Interested persons may submit written comments to William H. Barlow, Director and State Registrar, Division of Records and Statistics, DHH-OPH, Box 60630, New Orleans, LA 70160. Comments should be received at the above address by the close of business on September 7, 1992.

J. Christopher Pilley
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Registration of Children Born Outside of Hospitals

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no new costs to state or 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 PERSON OR NON-GOVERNMENTAL GROUPS (Summary)

Elimination of the requirement that physicians and midwives personally travel to a Parish Health Unit to record out-of-hospital births will result in travel expense savings and will free the lost time for potential health services delivery. There is no objective basis for projecting savings.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The measure has no anticipated affect on competition and employment.

Dr. Larry Hebert	David W. Hood
Assistant Secretary	Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Day Care Centers and Residential Facilities

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

Chapter XXI
Day Care Center and Residential Facilities

21:001. Definitions:

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

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

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

Infant—any child under the age of 12 months.

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

Preschool—any child less than five years of age.

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

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

General

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

21:002-1. Facilities applying for license after the effective date of this Chapter shall meet all of the requirements contained herein. Facilities licensed or with pending applications prior to the effective date shall be allowed 12 months from the effective date to comply with the following sections: 21:003-5a); 21:003-5c) as regards temperature control; 21:003-5d); 21:003-5e); 21:005-1; 21:006; 21:007-2; 21:010-9; 21:019-4; 21:020 and 21:020-2 as regards opening-sizes, heights and gates; 21:020-3. Such facilities shall comply with all other requirements of this Chapter on the effective date.

21:002-2. This Chapter shall become effective on January I, 1993.

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

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

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

21:003-3. Water supplies shall meet the requirements of Chapter XII of this Code.

21:003-4. Sewage disposal shall meet the requirements of Chapter XII of this Code.

21:003-5. Plumbing shall meet the requirements of Chapter XIV of this Code with the following additional provisions:

a) In child day care facilities toilets and lavatories shall be provided as follows: For pre-school children, one for up to 15 children; two for 16-30 children; one for every additional 30 children. Fixtures shall be of size appropriate for the age of children being cared for (toilets 11 inches maximum height and lavatories 22 inches maximum height), or if standard size fixtures are used, safe, cleanable step aids shall be provided.

b) For children between pre-school and 12 years of age, one toilet for every 30 girls and one for every 60 boys.

One handwashing lavatory shall be provided for each toilet.

c) Handwashing and bathing facilities shall be provided with hot and cold running water. Where such water will be in direct contact with children, the temperature shall not exceed 110°F. Mixing faucets or thermostatically controlled valves shall be installed to provide this tempered water.

d) Residential facilities housing six residents or less may provide plumbing fixtures as a single family residence. All others must provide plumbing as required for dormitories.

e) Child care centers and residential facilities housing more than six residents shall have a mop/utility sink.

21:004. Toilet training chairs shall be of a type which is easily cleaned and sanitized. Training "potties" shall be cleaned and disinfected in a mop/utility sink immediately after each use, the waste being disposed of in a flushing toilet. They shall be stored in the toilet room and be accessible to children only under direct supervision. Training chairs shall not be counted as toilets in the toilet-child ratio.

21:005. Heating, cooling and ventilation shall meet the following requirements:

21:005-1. A draft free temperature of 65°F to 75°F shall be maintained at 30 to 70 percent relative humidity during the winter months and a draft free temperature of 68°F to 82°F shall be maintained at 30 to 70 percent relative humidity during the summer months.

21:005-2. The combustion chambers of all heaters, heating systems, and other fired equipment shall be vented to the atmosphere. Other parts of the heating, cooling, and ventilating system shall be so designed, built, and maintained as to ensure that the pressure in the space from which combustion air is drawn does not become negative with respect to the atmosphere.

21:006. In day care centers, the following illumination levels shall be maintained (all measurements to be made three feet above the floor): Minimum of 50 foot-candles in all work and play areas; minimum of 10 foot-candles in hallways, stairs, toilet rooms; maximum of 5 foot-candles in any area during napping or sleeping.

21:006-1. Shielded light fixtures or shatterproof bulbs shall be utilized in food preparation areas and in areas designated for children less than two years of age.

21:007. Bedding shall meet the following standards:

21:007-1. Each bed in every day care center and residential facility shall be separated, vertically and horizontally, by at least 36 inches. This separation shall also apply where mats are used for napping.

21:007-2. Cribs shall meet current federal safety standards, and industry voluntary standards. Spaces between slats shall be no more than 2 3/8 inches. Mattresses shall be of standard size so that they fit the crib frame without gaps of more than 1/2 inches. Cribs shall not be used with the drop side down. There shall be no corner post extensions (over 1/16 inch) or cutouts in the headboards.

21:007-3. Stacked cribs shall not be used.

21:007-4. Bedding such as cots, beds, cribs, or floor pads (mats) shall be maintained in a safe and sanitary manner. Linens, if provided with bedding, shall be changed when soiled and between each use by different persons. These sheets shall be changed and laundered routinely at least once each week and blankets at least once each month and immediately when soiled.

21:008. The food preparation area in day care centers and residential facilities shall meet the following:

21:008-1. Where seven or more individuals are cared for, food preparation, storage and handling shall meet all the requirements of Chapter XXIII of this code, with the following exception: where the number of individuals cared for is between seven and fifteen, the following may be provided: either a three-compartment sink as required in Chapter XXIII of this Code or an approved domestic or commercial type dishwashing machine and a two-compartment sink with hot and cold running water under pressure to each compartment.

21:008-2. Food preparation, storage and handling where six or less individuals are cared for may provide a "home-type" setting with the following: approved potable water supply, approved sewage disposal, a two-compartment sink with hot and cold running water under pressure to each compartment and an approved domestic type dishwasher, plumbing installed in accordance with Chapter XIV, adequate dry storage space for food and a refrigerator capable of maintaining a temperature below 45°F.

21:008-3. Children shall be excluded by a suitable barrier from the food preparation area.

21:008-4. In facilities where the provision of food by clients is permitted by state regulations, food brought into the facility shall have a label showing client's name and the identity of the food. Perishable food shall be refrigerated at 45°F or below. Thermometer shall be provided in each refrigerator. All foods shall be protected against contamination.

21:009. Only Grade A pasteurized milk shall be served and dispensed in accordance with Chapter XXIII, Section 23:022-1 at day care centers and residential facilities except, where 15 or less are cared for, the state health officer may allow milk to be served from commercially filled containers with capacity of one-half gallon or greater. The serving of reconstituted milk is prohibited except in making instant desserts, whipped products, or for cooking and baking purposes, as stated in Chapter XXIII, Section 23:015.

Child Day Care Centers

21:010. Written policies and procedures regarding infection control practices and disease prevention shall be developed by each center which include the following:

21:010-1. Staff and children shall wash their hands at least at the following times: upon entering the center, before preparing or serving meals, after toileting or changing diapers, before and after eating meals or snacks, and anytime hands become soiled with body fluids (urine, stool, saliva, blood, nasal discharge).

21:010-2. Procedures shall ensure that staff teach use of running water, soap, and single use of disposable towels. Hands shall be washed and scrubbed for at least 10 seconds with soap and running water. Warm running water in sinks is required.

21:010-3. Weekly monitoring by the center director shall ensure that handwashing and cleaning procedures are followed as specified in the center's plan.

21:010-4. Noses shall be blown or wiped with disposable, one-use tissues that are discarded in a plastic-lined and covered garbage container.

21:010-5. Cuts or sores shall be covered.

21:010-6. Child care personnel shall adopt routine procedures for handling blood and blood-containing fluids and wound exudates of all children in the center.

a) For spills of vomitus, urine, and feces, floors, walls, bathrooms, table tops, toys, kitchen counter tops, and diaper-changing tables shall be cleaned and disinfected.

b) For spills of blood or blood-containing body fluids and injury and tissue discharges, the area shall be cleaned and disinfected. Gloves shall be used in these situations unless the amount of blood or body fluid is so small that it can easily be contained by the material used for cleaning.

c) Persons involved in cleaning contaminated surfaces avoid exposure of open skin sores or mucous membranes to blood or blood-containing body fluids and injury or tissue discharges by using gloves to protect hands when cleaning contaminated surfaces.

d) Mops shall be cleaned, rinsed in sanitizing solution and then wrung as dry as possible and hung to dry.

e) Blood-contaminated material and diapers shall be disposed of in a plastic bag with a secure tie.

21:010-7. The day care center director shall exclude from care any child with the following illnesses or symptoms based on potential contagiousness of the disease. Periods may be extended beyond this depending upon individual conditions.

ILLNESS/SYMPTOM	EXCLUDE UNTIL
Meningococcal disease (Neisseria meningitis)	Well and completed two day course of Rifampin
Hib disease (Hemophilus influenza)	Well and completed four day course of Rifampin
Diarrhea (two or more loose stools over and above what is normal for that child))	Diarrhea resolved or is controlled (contained in diaper or toilet)
Fever of unknown origin (100°F oral or 101°F rectal or higher) and some behavioral signs of illness.	Fever resolved or cleared by child's physician/ health department
Chickenpox	Skin lesions (blisters) scabbed over
Hepatitis A	One week after illness started and fever resolved
AIDS (or HIV infection)	Until child's health, neurologic development, behavior, and immune status are deemed appropriate (on a case-by-case basis) by qualified persons, including the child's physician*
Undiagnosed generalized rash	Well or cleared by child's physician
Any child with a sudden onset of vomiting, irritability or excessive sleepiness	Evaluated and cleared by child's physician

*These qualified persons should be able to evaluate whether the child will receive optimal care in the specific program being considered and whether an HIV-infected child poses a potential threat to others.

With most other illnesses, children have either already exposed others before becoming obviously ill (e.g., colds) or are not contagious one day after beginning treatment (e.g., strep throat, conjunctivitis, impetigo, ringworm, parasites, head lice, and scabies). The waiting periods required after the onset of treatment vary with the disease. Check with your local health department for information on specific diseases. Children who are chronic carriers of viral illnesses such as CMV and Herpes can and should be admitted to day care centers.

The parent or designated person shall be notified as soon as possible if a child develops symptoms of illness or suffers an accident while in care.

21:010-8. Guidelines shall be developed regarding biting behavior, treatment of bites, and notification to parents of the children (if injury requires first aid or medical attention).

21:010-9. Each child care employee shall receive three hours of training per year on infectious diseases, health safety and food service preparation. Whenever possible, this training should be provided during regular working hours.

21:011. Indoor environmental surfaces associated with children's activities and objects handled by children shall be cleaned when soiled and at least on the following basis:

a) Table tops and objects handled by children such as washable toys shall be cleaned at least once weekly. Items that children may place in their mouths shall be washed and sanitized at least daily. Soft, non-washable toys shall be limited to personal use items brought from home that are not shared between children.

b) All walls and ceilings shall be painted a light color. Walls, ceilings, and other surfaces shall be maintained in good repair and in a clean condition; not able to visibly contaminate cold rinse water.

c) Floors, except those carpeted, shall be vacuumed or swept, and mopped with a disinfecting solution at least daily and when soiled. Soiled mop water shall be disposed of immediately after use. Stored mops shall be hung.

d) Carpeted floors and large throw rugs which cannot be washed, shall be vacuumed at least daily and shampooed at least every three months and when soiled.

e) Toilet rooms and fixtures shall be cleaned and disinfected at least daily and shall be in good repair. Toilet rooms shall have walls, floors and ceilings of a smooth, easily cleanable finish, and shall be painted a light color. These rooms must be ventilated by means of a ventilation system in compliance with Chapter XIV.

f) Toilet rooms shall have at least one waste receptacle with pedal-operated lid. Waste receptacles shall be kept clean and in good repair.

g) Potty chairs and diaper changing surfaces shall be cleaned and disinfected after each use.

h) Any object or surface contaminated by bodily fluids (e.g. urine, feces, blood, wound or tissue exudate) shall be cleaned immediately and disinfected with a fresh solution of household bleach diluted 1/4 cup in one gallon of water made fresh every 24 hours.

i) Soap and separate paper towels will be provided at handwashing sinks.

21:012. Coat hooks spaced at least 12 inches apart, or individual cubicles or lockers, child's height shall be provided for storage of clothing and personal possessions of the children.

21:013. All areas accessible to children shall be free of toxic or hazardous materials and conditions:

21:013-1. Cleaning materials, detergents, aerosol cans, pesticides, health and beauty aids, poisons, and other toxic materials shall be stored in their original labeled containers and shall be used only in a manner that will not contaminate play surfaces, food, food preparation areas, or constitute a hazard to the children. When not in actual use, such materials shall be kept in a locked place inaccessible to children and stored separately from medications and food. Matches and lighters shall be inaccessible to children.

21:013-2. All medications will be kept in a locked cabinet.

21:013-3. Poisonous or potentially harmful plants on the premises shall be inaccessible to children.

21:013-4. No pets shall be permitted on the premises except aquarium fish if they are kept out of the reach of children.

21:013-5. Electrical outlets accessible to the children shall be covered with child resistant covers or be of the child-proof type.

21:013-6. All stair cases must be provided with suitable barriers to prevent access by children. All porches and decks where children are allowed to play must be provided with suitable barriers to prevent falls.

21:013-7. Smoking shall not be permitted in indoor areas of the child care facility.

21:013-8. Premises shall be maintained free of insect, rodent or other pest infestations or haborages. Application of any pesticide shall not be done when children are present. No restricted use pesticides shall be stored or used on the premises unless by properly licensed persons.

21:013-9. Open containers such as mop buckets shall not be left unattended.

21:014. Openings to the outside shall be protected against the entrance of flies or other flying insects by outward opening, self-closing doors, closed windows, screening or other effective and approved means.

21:015. Each foundation, floor, wall, ceiling, roof, window, exterior door, and basement shall be free from openings which may permit the entry of rodents.

21:016. Each center shall be provided with a separate room or designated area for the care of a child who needs to be separated from the group due to injury, illness or the need for additional rest. This room or area shall be located so the child may be supervised. Toilet and lavatory facilities shall be accessible readily. If the child under care is suspected of having a communicable disease, all equipment used by the child shall be cleaned and sanitized after use. This room or area may be used for other purposes when not needed for the separation and care of a child or if the uses do not conflict.

21:017. All formula bottles for those children still on bottles must be properly designated with the particular child's name attached to the bottle. These formulas are to be brought in bottles with caps and tops and shall immediately be placed under refrigeration by the operator. When bottles are emptied, they must be promptly cleaned and any bottles to be reused must be properly sterilized.

21:018. In child care centers, infants shall be cared for in an area separated by a suitable barrier from older children. Activities which bring infants and older children in contact with each other shall be limited. Infant caregivers shall not have regularly assigned responsibility for the care of older children.

21:019. A diaper changing table shall be provided in those centers that accept children in that age group. Children shall be diapered or have soiled underwear changed in the diaper changing area. The changing area shall never be located in food preparation areas and shall never be used for temporary placement of food.

21:019-1. Changing tables shall have an impervious surface and be kept in good repair. Tables shall be sturdy, adult-height, and shall be equipped with railings or safety straps.

21:019-2. Changing tables shall be disinfected after each use by washing to remove visible soil followed by wiping with an approved disinfecting solution (e.g., 1/4 cup of liquid chlorine bleach per one gallon of water made fresh every 24 hours). Disposable, non-absorbent paper sheets approved by the health department for this purpose may be used and shall be discarded immediately after each diapering.

21:019-3. Conveniently located, washable, plastic-lined, covered receptacles operated by a foot pedal shall be provided for soiled diapers; separate from a similar covered receptacle for burping cloths and linen and shall be placed out of children's reach.

21:019-4. A handwashing sink shall be in each diapering area.

Outdoor Play Areas

21:020. The outdoor play area shall be enclosed with a fence or natural barriers. The barrier shall be at least four feet in height and the bottom edge shall be no more than 3 1/2 inches off the ground. There shall be at least two exits from such areas with at least one remote from buildings. Gates shall be equipped with self-closing and positive self-latching closure mechanisms. The latch or securing device shall be high enough or of a type that cannot be opened by small children.

The openings in the fence shall be no greater than 3 1/2 inches to prevent entrapment. The fence shall be constructed to discourage climbing, at least equivalent to a chain link fence.

21:020-1. Outdoor areas shall be kept free of excessive dust, weeds, brush, high grass, debris, and standing water.

21:020-2. Outside play areas shall be free from unprotected swimming and wading pools, ditches, quarries, canals, excavations, fish ponds or other bodies of water. All water hazards shall be enclosed with a fence which is at least five feet high and comes within 3 1/2 inches of the ground with openings of greater than 3 1/2 inches.

21:020-3. All pieces of playground equipment shall have an appropriate energy absorptive surface such as wood chips at a depth of 8-10 inches or rubber mats manufactured for such use meeting A.S.T.M. Standard F-355, under the fall zone of the equipment.

21:020-4. Sandboxes shall be constructed to permit drainage, and shall be covered when not in use and be kept free from cat or other animal excrement.

Swimming Pools

21:021. Outdoor swimming pools associated with children's activities shall be rendered safe and free of hazards.

21:021-1. Water in swimming and wading pools used by children shall be maintained between pH 7.2 and pH 8.2. The water shall be disinfected by available free chlorine greater than 0.4 parts per million or an equivalent disinfectant as approved by the state health officer. The pool shall be cleaned daily and the chlorine level and pH level shall be tested every two hours during use periods. The results of

these tests will be posted in a log for review by the state health officer.

21:021-2. Water temperature shall be maintained at no less than 82°F and no more than 93°F while in use.

21:021-3. When not in use, in-ground swimming pools shall be covered with a safety cover which meets or exceeds the standards of the American Society for Testing and Materials (ASTM).

21:021-4. Above ground pools shall be covered when not in service with a secured cover that does not accumulate rain water.

A public hearing will be held Friday, September 25, 1992 at 10 A.M. in the auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. Interested persons may submit questions and/or written comments on the proposed changes prior to or at the scheduled hearing to Larry I. Hebert, M.D., Assistant Secretary, Office of Public Health, Box 60630, New Orleans, LA 70160.

J. Christopher Pilley
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Chapter XXI, Sanitary Code

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs. The inspection program is already in place. This rule institutes new inspection standards.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is expected that the majority of existing facilities in the state already meet the structural and equipment requirements contained in this rule. Because of the variety of existing conditions and the array of possible remedies to meet the new standards (purchase of new or used equipment; modification of present equipment; removal of hazards; reduction of client population), it is not possible to give a typical cost. The most common remedies expected will be: replacement or modification of cribs manufactured before 1974; replacement or modification of barriers, railings and fences; addition of one toilet in some day care centers which care for 16-30 preschool children; addition of handwashing sink in some infant care facilities. Many centers will realize a cost savings by being allowed to serve milk from half gallon or larger containers rather than from individual serving containers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be little effect on competition or employment. Existing facilities which do not meet the new equipment and structural requirements, will have one year to come into compliance.

Larry J. Hebert, M.D.
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Under the authority of R.S. 40:4 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the state health officer, acting through the Office of Public Health of the Department of Health and Hospitals, hereby proposes to amend and reenact the entire Chapter I (General Provisions) of the State Sanitary Code. This revision is necessary to improve the procedure so as to assure that parties regulated by this Code receive ample due process as required by the Administrative Procedure Act. This reenactment will clarify and spell out the procedures that must be followed for Sanitary Code enforcement.

Copies of this proposed rule may be reviewed at any of the Office of Public Health regional offices and at the Office of Public Health Central Office between the hours of 8 a.m. and 4:30 p.m. on regular work days. The locations of the Office of Public Health offices are as follows: Region I, 3308 Tulane Ave., 5th Floor, New Orleans, (504) 826-2400; Region II, 1772 Wooddale Blvd., Baton Rouge, (504) 925-7200; Region III, 206 E. Third St., Thibodaux, (504) 447-0916; Region IV, 825 Kaliste Saloom Rd., Brandywine 3, Lafayette, (318) 265-5311; Region V, 4240 Legion St., Lake Charles, (318) 491-2040; Region VI, 1335 Jackson St., Alexandria, (318) 487-5262; Region VII, 1525 Fairfield Ave., Room 566, Shreveport, (318) 226-7470; Region VIII, 2813 Betin St., Monroe, (318) 362-5224; Central Office, 325 Loyola Ave., Room 210, New Orleans, (504) 568-5181, and also from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

Interested persons may submit written comments on the proposed changes to Larry J. Hebert, M.D., Assistant Secretary, Office of Public Health, Box 60630, New Orleans, LA 70160 by October 1, 1992.

J. Christopher Pilley
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Reenactment of Chapter 1 of the State Sanitary Code

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs because these services are already being rendered.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Larry J. Hebert, M.D.
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Permitting Process for Sewage System Installation

The Department of Health and Hospitals, Office of Public Health intends to change Section 13:012-3 of Chapter XIII of the State Sanitary Code to more clearly define the permitting process and responsibilities for individual sewage system installations. This section shall read as follows:

13:012-3—A "final" permit, which shall also be in writing, may be issued only upon assurance that the individual sewage system has been properly installed. In the case of individual mechanical plants, such assurance of proper installation shall be in the form of a completed "Certificate of Installation" form submitted to the state health officer by the licensed installer who performed the actual installation. In the case of all other types of individual sewage systems, the assurance of proper installation shall be determined by means of an on-site inspection conducted by a representative of the state health officer. With systems that use electrical power, the home owner/occupant shall complete and sign an "Individual Sewerage Electrical Certification Form" specifying that the installation complies fully with the National Electrical Code and any applicable local codes. The sanitarian shall not issue final approval for this system, unless he/she has received a duly completed original "Individual Sewerage Electrical Certification Form" and the installation checklist. Only forms physically furnished by the Office of Public Health, obtainable from each parish health unit, free of charge, shall be accepted. In any case, a final permit shall be issued only to the owner/occupant of the premises to be served by the individual sewage system.

NOTE: In no case does the Office of Public Health of the Department of Health and Hospitals assume any liability or responsibility for electrical connections of this system.

Interested persons may submit written comments on the proposed change to Larry J. Hebert, M.D., Assistant Secretary, Office of Public Health, Box 60630, New Orleans, LA 70160 by October 1, 1992.

J. Christopher Pilley
Secretary

Fiscal and Economic Impact Statement for Administrative Rules
Rule Title: Sewage System Installation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL UNITS (Summary)

There are no estimated implementation costs because these services are already being rendered.

II. ESTIMATED EFFECT ON COLLECTIONS OF STATE OR LOCAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Larry J. Hebert, M. D.
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Insurance
Commissioner of Insurance

Pursuant to the provisions of R.S. 49:950 et seq. and R.S. 22:224, the Commissioner of Insurance gives notice of his intent (1) to repeal Regulation 33 as it currently stands and replace it with new Regulation 33; (2) to repeal Regulation 33A and 33B. These actions are necessary to bring the medicare supplement insurance minimum standards regulation in line with the provisions mandated by the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), 42 USC 1395 et seq., and Act 428 of the 1992 Regular Legislative Session, and to eliminate duplicative regulations.

SYNOPSIS
Proposed Regulation 33B
(Revised)
Medicare Supplement Insurance Minimum Standards

Proposed Regulation 33B establishes the minimum standards which must be complied with by all insurers marketing medicare supplement policies in Louisiana. The authority for this regulation is found in R.S. 22:224 and in 42 U.S.C. 1395 et seq. (OBRA '90).

The regulation begins with a statement of its purpose and the authority for its adoption. It then defines key terms used in the regulation and those that must be used in medicare supplement policies. The regulation then goes up to set forth the minimum standards that must be offered in various approved medicare supplement insurance plans as well as the requirements for coverage and standards for payment for services and fees. The regulation includes charts which detail the types of coverage and costs covered under the various plans. It also sets standards for the payment of claims, the payment of premiums, the filing and approval of policies including mandatory policy provisions and the approval of premium rates.

Interested parties may request a copy of the text of the proposed rule from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804, or from Life and Health Division of the Department of Insurance at address below or by calling (504) 342-5301.

The proposed regulation is to become effective November 20, 1992. The repeal of Regulations 33A and 33B will be effective that same date. Interested parties may submit written comments on the proposed regulation until 4:30 p.m., September 25, 1992 at the following address: C. Noel

Wertz, Senior Attorney, Box 94214, Baton Rouge, LA 70804-9214.

A public hearing on the proposed regulation and repeal of Regulations 33A and 33B will be held on September 29, 1992 in the Plaza Hearing Room of the Insurance Building, 950 N. Fifth Street, Baton Rouge, LA at 10 a.m. All interested persons will be afforded an opportunity to make comments.

James H. "Jim" Brown
Commissioner

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Reg 33 - Medicare Supplement Insurance Minimum Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing this regulation. The regulation does not impose any new duties on the department with the exception of reviewing requests for premium rate increases. The department has adequate personnel available to handle this responsibility.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of this regulation will not have any effect on revenue collections by the state or local governmental units. There are no fees, fines or other revenue generating activities imposed.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is not anticipated that this regulation will impose any additional costs on those companies which market medicare supplement insurance policies in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that there will be any effect on either competition or employment resulting from the adoption of this regulation.

Lester Dunlap
Director, Life and Health Div.

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Public Safety and Corrections
Corrections Services

Medical Parole of Inmates

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the rules and regulations relative to medical parole of inmates.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part I. Corrections

Chapter 3. Adult and Juvenile Services
§310. Medical Parole

A. Purpose. To establish procedures for parole consideration of inmates determined to be permanently incapacitated or terminally ill.

B. Applicability. The assistant secretary of the Office of Adult Services, all wardens, medical directors and hospital administrators, in cooperation with the parole board, shall be responsible for ensuring compliance with this regulation.

C. General

1. Any person sentenced to the custody of the Department of Public Safety and Corrections, upon determination that he is permanently incapacitated or terminally ill as defined in Subsection D, may be considered for medical parole by the Parole Board. Medical parole consideration shall be in addition to any other parole for which an inmate may be eligible, but shall not be available to any inmate who is awaiting execution or has a contagious disease.

2. The authority to grant medical parole shall rest solely with the Parole Board, and this board may establish additional conditions of parole in accordance with the provisions of R.S. 15:574.20.

3. In considering an inmate for medical parole, the Parole Board may require that the department produce additional medical evidence or conduct additional medical examinations.

4. The parole term of an inmate released on medical parole shall be for the remainder of the inmate's sentence, without diminution of sentence for good behavior. Supervision of the parolee shall consist of periodic medical evaluations at intervals to be determined by the Parole Board at the time of release.

5. If it is discovered through the supervision of the medical parolee that his condition has improved such that he would not then be eligible for medical parole under the provisions of this regulation, the Parole Board may order that the inmate be returned to the custody of the department to await a hearing to determine whether his parole shall be revoked. Any inmate whose medical parole is revoked due to an improvement in his condition shall resume serving the balance of his sentence with credit given for the duration of the medical parole. If the inmate's medical parole is revoked due to an improvement in his condition, and he would be otherwise eligible for parole, he may then be considered for parole under the provisions of R.S. 15:574.4. Medical parole may also be revoked for violation of any condition of parole established by the Parole Board.

D. Definitions

1. *Permanently Incapacitated Inmate*—Any inmate who, by reason of an existing physical or medical condition, is so permanently and irreversibly physically incapacitated that he constitutes only minimal danger to himself or to society.

2. *Terminally Ill Inmate*—Any inmate who, because of an existing medical condition, is irreversibly terminally ill, and who by reason of the condition constitutes only minimal danger to himself or to society.

3. *Danger to Himself*—An inmate whose behavior supports a reasonable expectation that he will inflict physical or severe emotional harm upon his own person.

4. *Danger to Society*—An inmate whose behavior supports a reasonable expectation that he will inflict physical harm upon another person or continue to participate in criminal activity.

E. Procedures. The following procedures shall be followed to identify inmates who may be eligible for medical parole:

1. A recommendation for a medical parole shall originate with the institution. If the unit medical director believes an inmate meets medical parole criteria according to Subsection D, he will forward a completed recommendation for medical parole form, and any other supporting documentation, to the warden for comments. The warden's comments should reflect whether or not, in his opinion, the inmate will constitute a security risk to the public should his medical parole be granted. Specifically, these comments should address the inmate's adjustment while incarcerated and the effect his medical condition has had upon his conduct with staff and other inmates, as well as his overall behavior. The warden shall then cause to be completed and promptly forward a residence agreement form, recommendation for medical parole form, supporting documentation and his comments, if any, to the Office of the Secretary.

2. The secretary will generally route the request to the Office of Adult Services for review of compliance with applicable law and policy. In any event, the secretary may:

a. concur with the recommendation of the warden and unit medical staff and forward the case to the Parole Board for review;

b. seek additional information from other medical or administrative staff prior to rendering a decision regarding medical parole eligibility; or

c. decline to forward the case to the Parole Board.

3. If the Parole Board review is not favorable, or if the case is not forwarded to the Parole Board by the secretary for review, then reconsideration may be granted upon reinitiation of the process at the unit level.

F. The effective date of this regulation is November 20, 1992.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:754.20, as enacted by Act 563 of the 1990 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 17:605 (June 1991), amended LR 18:

Interested persons may submit written comments to the following address: Richard L. Stalder, Secretary, Department of Public Safety and Corrections, Box 94304, Baton Rouge, LA 70804-9304. Comments will be accepted through the close of business, 4:15 p.m., September 18, 1992.

Richard L. Stalder
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Medical Parole of Inmates

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs or savings to state or local governmental units associated with this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units associated with this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups associated with this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no effect on competition and employment.

Richard L. Stalder
Secretary

John R. Rombach
Legislative Fiscal Officerk

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of the State Police

Breath and Blood Alcohol Analysis
LAC 55:I.501

The Department of Public Safety and Corrections, Office of State Police, hereby advertises its intent to adopt the following amendment to the regulation concerning the approval of instruments for blood alcohol analysis by breath sampling:

Title 55
PUBLIC SAFETY
Part 1. State Police
Chapter 5.Breath and Blood Alcohol Analysis Methods and Techniques
Subchapter A. Analysis of Breath
§501. Approval of Instruments to Conduct Blood Alcohol Analysis by Breath Sampling

* * *

B. Approval of Instrumentation. The following is the instrument approved by the Louisiana Department of Public Safety and Corrections, the Office of State Police, Applied Technology Unit for analysis of breath specimens for the determination of the blood alcoholic content therein:

1. Intoxilyzer 5000, which was formerly manufactured by CMI Inc. and distributed by Federal Signal Corporation, and since October 9, 1988 manufactured by CMI , Inc. a subsidiary of MPD, Inc. Every Intoxilyzer 5000 which has been certified and placed in operation in Louisiana is now and has been continuously, since the date of its original certification, an approved instrument for the analysis of breath specimens for the determination of blood alcoholic content regardless of any incorrect reference to its manufacture or distribution in the amendment of July 20, 1991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:390 (October 1978), amended LR 6:660 (November 1980), LR 11:256 (March 1985), LR 14:362 (June 1988), repromulgated LR 14:441 (July 1988), amended LR 17:672 (July 1991), LR 18:

* * *

Interested parties may comment on this proposed amendment by writing to or contacting George Dunn, Applied Technology, 7901 Independence Boulevard, Baton Rouge, LA 70806.

Paul W. Fontenot, Colonel
Deputy Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Breath and Blood Alcohol Analysis

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will not have any impact on implementation costs to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will not have any impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This rule will not have any fiscal impact.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule will not have any effect on competition and employment.

Linda M. Dawkins
Undersecretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Social Services
Office of Family Support

Food Stamp Eligibility

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamps.

This proposed rule is necessary to comply with USDA Food And Nutrition Service directives to implement federal regulations at 7 CFR 271.2, 273.1, 278.1, 273.5, 273.8, 273.9 and pages 63592-63617 of FR 56, No.233.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 3. Food Stamps
Chapter 17. Administration

* * *

Subchapter B. General Administrative Requirements

* * *

§1711. Disabled People in Group Living Arrangements

A. All individuals residing in group living arrangements who meet the Food Stamp Act's definition of "disabled" (as defined in Section 3(r) of the Food Stamp Act) are eligible to receive food stamps to purchase their prepared meals.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.2, 273.1(e)(1)(iii), 278.1(f).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support LR 18:

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Chapter 19. Certification of Eligible Households

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Subchapter E. Students

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§1937. Student Related Provisions

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4. Exclusions from Educational Assistance

* * *

c. All educational assistance will be excluded in the same manner regardless of the source of the assistance, i.e., an exclusion from educational income shall be granted based on amounts earmarked by the institution, school program, or other grantor as made available for the specific costs of tuition, mandatory fees, books, supplies, transportation, and miscellaneous personal expenses (other than living expenses).

d. The definition of mandatory fees includes the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved.

e. The maximum age level of students attending institutions of higher education who are prohibited from receiving food stamp assistance shall be lowered from 60 years to 50 years of age.

f. Eligible student status shall be granted to students participating in a state or federally financed work study program during the regular school year and the work incentive program under Title IV of the Social Security Act or its successor programs.

g. The funds from PASS (Plan for Achieving Self-Support) accounts will be excluded as income for the food stamp program.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.2, 273.1(e)(1)(iii), 278.1, 273.5, 273.9(c), 273.9C(v).

HISTORICAL NOTE: Promulgated by Department of Social Services, Office of Family Support LR 18:

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Subchapter H. Resource Eligibility Standards

* * *

§1949. Exclusions From Resources

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3. Inaccessible resource - one whose sale or other disposition is unlikely to produce any significant amount of funds for the support of the household.

4. State agencies shall not be required to require verification that a resource is inaccessible unless the information provided by the household is questionable.

B. All of the resources of recipients of AFDC; SSI; and aid to the aged, blind, or disabled under Titles I, II, X, XIV, or XVI of the Social Security Act are excluded.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.8, 273.9C(v).

HISTORICAL NOTE: Promulgated by the Department of

Health and Human Resources, Office of Family Security in LR 13:656 (November 1987), amended LR 18:

* * *

Subchapter I. Income Eligibility Standards

* * *

§1964. Standard Shelter Estimate

A. Homeless households which do not receive free shelter throughout the calendar month shall be entitled to a Standard Shelter Estimate (SSE) of $128. The $128 SSE is a USDA-FNS determined estimate of reasonable expenses related to shelter costs which a homeless household may be expected to incur. All homeless households which incur or reasonably expect to incur shelter costs during a month shall be eligible for the SSE unless higher shelter costs are verified. If shelter costs in excess of $128 are verified, the household may use actual costs rather than the SSE.

AUTHORITY NOTE: Promulgated in accordance with FR 56:63614, 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:

* * *

Subchapter J. Determining Household Eligibility and Benefit Levels

* * *

§1987. Categorical Eligibility for Certain Recipients

A. Households Considered Categorically Eligible

* * *

12. Households in which all members receive assistance from a Local General Assistance Program shall be considered categorically eligible for food stamps provided the LGA program has income and resource standards which do not exceed the food stamp limits; the LGA benefits are provided to assist in meeting living expenses; and the LGA benefits are on-going (not limited to emergency assistance).

AUTHORITY NOTE: Promulgated in accordance with FR 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274; FR 56:63612-63613.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security in LR 13:90 (February 1987), amended by the Department of Social Services, Office of FAmily Support, LR 18:

Interested persons may submit written comments within 30 days to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on September 24, 1992 in the second floor auditorium at 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Food Stamp Program-1990 Farm Bill and The Mickey Leland Act

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation cost to state government as a result of this action is for the printing and issuing of an Executive Bulletin which informed appropriate staff of policy changes at a cost of $114.57. (No other printing is necessary because changes in the Food Stamp manual are being incorporated in a computer information system which will be in use beginning October 1, 1992.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This action will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Since this action changes the criteria for food stamp participation and increases the number of persons/households eligible for benefits, it is expected to benefit a number of persons but no specific benefit amount can be projected. There are no costs anticipated to persons or non governmental groups.

IV. ESTIMATED IMPACT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect expected on competition or employment.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Social Services
Office of Family Support

Food Stamp Issuance

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 3. Food Stamps.

This rule is mandated by 7 CFR Part 274.2 (c) (1).

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 3. Food Stamps

* * *

Chapter 19. Certification of Eligible Households

* * *

Subchapter J. Determining Household Eligibility and Benefit Levels

* * *

§1992. Issuing Benefits

A. State Office ATP Issuing Procedures. The regular monthly Authorization to Purchase (ATP) cards will be mailed on 14 mailing dates. Mail codes which identify the mailing sequence will be computer-assigned to all households.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 274.2 (c) (1).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:

Interested persons may submit written comments within 30 days to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on September 24, 1992 in the Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Expanded Mailing Dates of Food Stamp Cards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated costs or savings to state or local government. No printing is anticipated because changes in the Food Stamp manual are being incorporated in a computer information system scheduled to be in use effective October 1, 1992.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed action will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits to any persons or groups.

IV. ESTIMATED IMPACT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition or employment.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Social Services
Office of Family Support

Food Stamp Program

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamp Program.

This rule is mandated by Federal Regulations at 7 CFR 273.7.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 3. Food Stamps
Chapter 19. Certification of Eligible Households

* * *

Subchapter G. Work Requirements

* * *

§1941. Household Concept

* * *

3. Ending or Avoiding Employment and Training (E&T) or Voluntary Quit Sanctions.

* * *

iii. Conciliation is an attempt to reach a resolution of the participant's failure to comply with the employment and training requirement prior to initiation of a sanction (sending advance notice of adverse action.) The purpose of conciliation is to determine the reason the work registrant did not comply with the employment and training requirement and to provide the noncomplying individual with an opportunity to comply prior to the issuance of a notice of adverse action. The conciliation period shall begin the day following the date an individual fails to comply and shall continue for a period not to exceed 30 calendar days. A conciliation letter will be sent to the participant by the contractor/provider when conciliation begins.

iv. Conciliation must be initiated by the contractor/provider when there is knowledge of the participant's failure to comply; cannot exceed 30 days, and may end sooner if the participant refuses to cooperate in the process; and is considered successful when a verifiable act of compliance is performed by the participant or good cause is established. If the conciliation process is not successful, the process of sanctioning shall be initiated.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.7 (c)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security in LR 13:394 (July 1987), amended LR 18:

Interested persons may submit written comments within 30 days to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, Louisiana, 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on September 24, 1992 in the Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Conciliation of Work Requirements in the Food Stamp Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation cost to state government as a result of this action is $1,199.71 for the printing of policy changes in the Financial Assistance Manual. This cost was incurred when this action was implemented by an emergency rule in February 1992.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This action will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no costs anticipated to persons or non-governmental groups. Some persons may benefit by continuing to receive food stamp benefits that previously may have been lost, but there is no data available on which actual

benefits can be determined.

IV. ESTIMATED IMPACT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Social Services
Office of Family Support

Transitional Child Care/Project Independence

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 2, Aid to Families with Dependent Children (AFDC) Program and Subpart 5, Job Opportunities and Basic Skills Training Program.

This rule is necessary to establish the new payment schedule approved for all child care programs in the Department of Social Services.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 2. Aid to Families with Dependent Children (AFDC)
Chapter 11. Application, Eligibility, and Furnishing Assistance
Subchapter E. Transitional Child Care Assistance
§1181. Eligibility Fees and Payments

G. Child Care Payments

* * *

2. The statewide limit is established as the maximum monthly amount allowable based upon the provider type, age, and the type of care provided. For Class A child care centers, the maximum payment for children under age two will be $238.30 for full-time care and $119.15 for part-time care. For children age two or older in Class A centers, the maximum payment will be $216.50 for full-time care and $108.25 for part-time care. For all other care providers, the maximum child care payments will be $216.50 for full-time care and $108.25 for part-time care.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:238 (March 1990), amended by the Department of Social Services, Office of Family Support LR 18:

Subpart 5. Job Opportunities and Basic Skills Training Program
Chapter 29. Organization
§2903. Child Care Payment Rates for Project Independence

A. The following is the Standard Rate Schedule for payment for child care services provided to the children of Project Independence participants. The statewide limit is established as the maximum amount allowable based upon the provider type, age of child, and the type of care provided.

STANDARD RATE SCHEDULE
Regular Care

	CHILD UNDER AGE 2				CHILD AGE 2 AND OLDER			
CLASS A CENTERS	Full Time		Part Time		Full Time		Part Time	
	Monthly	$238.30	Monthly	$119.15	Monthly	$216.50	Monthly	$108.25
	Weekly	55.00	Weekly	27.50	Weekly	50.00	Weekly	25.00
	Daily	11.00	Daily	5.50	Daily	10.00	Daily	5.00
	Hourly	1.38	Hourly	1.38	Hourly	1.25	Hourly	1.25
ALL OTHER PROVIDERS	Full Time		Part Time		Full Time		Part Time	
	Monthly	$216.50	Monthly	$108.25	Monthly	$216.50	Monthly	$108.25
	Weekly	50.00	Weekly	25.00	Weekly	50.00	Weekly	25.00
	Daily	10.00	Daily	5.00	Daily	10.00	Daily	5.00
	Hourly	1.25	Hourly	1.25	Hourly	1.25	Hourly	1.25

B. All rates herein are established as maximum allowable amounts; payments will be the provider's actual charges or the maximum rate, whichever is less. Daily rates are based on eight hours per day; weekly rates are based on five days per week; monthly rates are based on 4.333 weeks per month. Part-time care is considered to be 20 hours per week or less. Part-week care is considered to be fewer than five days per week, paid at the daily rate. (Example: A Project Independence participant in a component that is scheduled for three days per week would be eligible for the days of participation only.)

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

HISTORICAL NOTE; Promulgated by the Department of Social Services, Office of Family Support, LR 18:

Interested persons may submit written comments within 30 days to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on September 24, 1992 in the Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All

interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Standard Child Care Rates for AFDC and PI

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This action establishes standard statewide limits for child care payments in the Project Independence and Transitional Child Care Programs. Implementing the new rates represents an increase of approximately 25 percent of the previous costs or a total of $2,009,980 in the first effective year. There are no savings resulting from the action.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule has no estimated effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Since the child care payments are paid to either child care providers or as reimbursement to clients whose child/children require such care, there is economic benefit to both of these groups. They are the recipients of all of the increases detailed in this report. Therefore, for the fiscal year 92/93 providers for Project Independence children would receive an increase of $1,617,109 as a result of this action, and participants in the Transitional Child Care Program could receive $392,871 more in that year.

There are no estimated costs to any person or group associated with this action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Social Services
Office of the Secretary

The Department of Social Services, Office of the Secretary proposes to adopt the following rule in the Child Care Assistance Program effective November 20, 1992.

Title 67
SOCIAL SERVICES
Part I: Office of the Secretary

Chapter 1. Child Care Assistance Program

* * *

§102. Waiting Lists

A limited amount of federal funding is available each year through the Child Care and Development Block Grant. As each child is determined eligible and authorized for services, anticipated agency expenditures on his behalf for 12 months are deducted from the total allocation for that year, to assure that expenditures can be made. Each regional office is responsible for tracking obligations of the funds allocated to that region. When all the funds for the current year have been obligated, no payments can be made for any additional children determined eligible. Instead, a waiting list is maintained for each region. Eligibles on the waiting lists are assigned a priority code according to the following criteria:

A. Children in need of Protective Services
B. Special Needs Children
C. All other children

Within each priority group identified above, the waiting lists are maintained in chronological order by date of application.

§103. Child Care Providers

* * *

§ 104. Payment

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:

Interested persons may submit written comments by September 24, 1992 to the following address: William Ludwig, Deputy Secretary, Department of Social Services, Box 3776, Baton Rouge, LA 70821. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on September 24, 1992 in the Second Floor Auditorium, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Child Care Assistance Waiting List

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs associated with this proposed rule. It establishes policy in the Child Care Assistance Program for the maintenance of a waiting list, to be used when all of the allocated funds from the federal Department of Health and Human Services have been obligated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no change in the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

In federal fiscal year 91/92, the Child Care and Development Block Grant allocated to Louisiana $21,668,917 (of which 75 percent, or $16,251,687, can be expended by the Child Care Assistance Program). It is anticipated that allocations in the remaining two years of the Block Grant will be approximately the same. The total funds allocated to Louisiana will not be changed; instead, an

organized process for management of a waiting list of eligible applicants is being established.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment.

William Ludwig
Deputy Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Alligator Harvest and Farming Programs

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission does hereby give notice of its intent to amend the alligator regulations which govern the wild and farm alligator harvest. The alligator industry of Louisiana represents a renewable resource, valuable to the economy providing income to approximately 125 alligator farmers and in excess of 1,900 alligator hunters. The alligator farming program and the annual harvest of surplus wild and nuisance alligators is in keeping with wise wildlife management techniques based upon scientific research conducted by the Department of Wildlife and Fisheries.

The Wildlife and Fisheries Commission does hereby authorize and delegate to the secretary of the Department of Wildlife and Fisheries, the authority to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to filing of the fiscal and economic impact statements, the filing of the notice of intent and preparation of reports and correspondence to other agencies of government.

The full text of the regulations governing the alligator harvest program and the alligator farming program may be obtained through the Office of the State Register, 1051 North Third Street, Baton Rouge, LA or may be viewed at the Wildlife and Fisheries Headquarters, 2000 Quail Drive, Baton Rouge, LA, phone: (504) 765-2812.

Interested persons may submit written comments on the proposed regulations to James H. Manning, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

James H. Jenkins, Jr.
Chairman

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Alligator Harvest and Farming Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs or savings to any governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collection of any governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no cost or benefit to directly affect any persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment opportunities.

Joe L. Herring
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Striped Mullet

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a rule establishing zones, seasons, permits, fees, daily limits, and gears for the taking of striped mullet. Authority for adoption of this rule is included in R.S. 56:333 and 56:325.1.

Title 76
Wildlife and Fisheries
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishing
§343. Rules for the Harvest of Striped Mullet

A. Seasons: A season is hereby set, to run from 12:01 a.m. September 15 until 12 p.m. (midnight) October 14 of each year, with a commercial daily take and possession limit of 200 pounds of mullet per permit holder or per vessel, whichever is less. Outside of this season, mullet may be taken commercially by duly licensed and permitted fishermen with daily take or possession limit of 1,500 pounds of mullet per permit holder or per vessel, whichever is less.

B. Recreational limit: The daily take and possession limit for recreational harvest of mullet shall be 100 pounds per person, year-round.

C. In addition, all provisions of R.S. 56:333 (B)(3) and (4), and 56:333 (C) are hereby adopted and incorporated into this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:333, 56:325.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:

Interested persons may submit comments relative to the proposed rule prior to 4:30 p.m., September 20, 1992 to Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

James H. Jenkins, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
Rule Title: Harvest of Mullet

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 COLLECTION OF STATE OR LOCAL GOVERNMENT UNITS. (Summary)

There will be an estimated $100,000 increase in annual permit fees to Wildlife and Fisheries from the proposed rule.

III. ESTIMATED COST AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS. (Summary)

There will be a $100 annual permit fee for residents ($400 for non-residents) involved in the commercial harvest of mullet. There will also be costs, of an undetermined magnitude, as a result of decreased efficiency in harvest due to the proposed daily harvest limitations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT. (Summary)

There may be a slight decrease in employment in the private sector as a result of increased costs involved in the fishery (see III above).

Fredrick J. Prejean
Undersecretary

David W. Hood
Senior Fiscal Analyst

Potpourri

POTPOURRI

Department of Agriculture and Forestry
Horticulture Commission

The next retail floristry examinations will be given at 9:30 a.m. daily at the 4-H Mini Farm Building, LSU Campus, Baton Rouge, LA. The exam will be given in Baton Rouge permanently. The deadline for getting in application and fee is September 22, 1992. All applications and fees must be in the Horticulture Commission office no later than 4:30 p.m. on the deadline date. The test dates will be October 20-23, 1992.

Further information concerning examinations may be obtained from Mr. Craig M. Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone 504/925-7772.

Bob Odom
Commissioner

POTPOURRI

Department of Employment and Training
Office of Employment Security

Pursuant to Act No. 583 of the Regular Session of the 1975 Louisiana Legislature, this state's average weekly wage upon which the maximum worker's compensation weekly benefit amount will be based effective September 1, 1992 has been determined by the Louisiana Department of Employment and Training to be $409.30.

Gayle F. Truly
Secretary

POTPOURRI

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

Public Hearing

The Department of Environmental Quality, Air Quality Compliance Division will hold a second public hearing September 25, 1992, at 1:30 p.m., in the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA. The purpose of this hearing is to receive comments regarding the proposed revision to the State Implementation Plan (SIP) for the establishment of the Louisiana Small Business Technical Assistance Program (SBTAP) pursuant to the Federal Clean Air Act Amendment, Section 507 and R.S. 30:2060.N.6. Interested persons are invited to attend and submit oral comments on the proposed revision.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than September 28, 1992 at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810. A copy of this proposed SIP will be available for public review August 20, 1992, in the following regional offices throughout the state:

Acadiana Regional Office
100 Asma Boulevard, Suite 151
Lafayette, LA

Northeast Regional Office
804 North 31st Street
Monroe, LA

Northwest Regional Office
1525 Fairfield, Room 11
Shreveport, LA

Southwest Regional Office
3945 N. I-10 Service Rd. W.
Metairie, LA

Capitol Regional Office
11720 Airline Highway
Baton Rouge, LA

Southwest Regional Office
3519 Patrick Street
Lake Charles, LA

Joan Albritton
Administrator

POTPOURRI

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

In accordance with the provisions of the Louisiana Administrative Code (LAC) 33:V.105.H.3 the secretary gives notice of the Department of Environmental Quality's tentative decision to deny the AMAX Metals petition to amend the Hazardous Waste Regulations, LAC 33:V.Chapter 51-Fee Schedule.

The AMAX Metals petition is tentatively being denied because the facilities hold interim status as a TSD facility that is a reclaimer (pays for waste removed). Commercial facilities, such as AMAX Metals, are comparable to commercial treatment, storage and disposal (TSD) facilities with similar status, inspection, manifest, monitoring, and annual report requirements.

The department is requesting written public comments which are to be submitted no later than 15 days following publication of this notice to the attention of Vince Sagnibene, Department of Environmental Quality, Hazardous Waste Division, Box 82178, Baton Rouge, LA 70884-2178. After evaluating all public comments, the administrative authority will publish a final decision in the *Louisiana Register.*

Upon the written request of any interested person, the administrative authority may, at its discretion, hold an informal public hearing to consider oral comments on the tentative decision to deny the petition. A person requesting a hearing must state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The administrative authority may in any case decide on its own motion to hold an informal public hearing.

Kai David Midboe
Secretary

POTPOURRI

Department of Health and Hospitals
Office of Public Health
Nutrition Section

In accordance with Public Laws 99-500 and 99-591 the Louisiana Special Supplemental Nutrition Program for Women, Infants and Children (WIC) is soliciting comments from the general public on the WIC program's State Plan for 1992-93. The plan describes in detail the goals and the planned activities of the WIC program for the next year. Interested persons may find copies of the State Plan at their local parish health units or they may apply directly to the Nutrition/WIC office for copies of the plan at 5 cents per page. Interested individuals should submit their requests for copies or their comments on the Plan to the following address: State of Louisiana, Department of Health and Hospitals, Office of Public Health, Attn: State Plan, Nutrition Section - Room 405, Box 60630, New Orleans, Louisiana 70160. Additional information may be gathered by contacting Henry Klimek (504) 568-5065.

Pamela P. McCandless, M.P.H.
Administrator, Nutrition Section

POTPOURRI

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

In accordance with Section 1923 of the Social Security Act, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has found that the hospitals listed below qualify for an interim payment adjustment for inpatient hospital services reimbursed by Medicaid as they serve a disproportionate number of low income patients. The Medicaid utilization mean cost reporting periods beginning October 1, 1991 has been calculated to be equal to 19.76 percent plus one standard deviation equal to 16.85 percent for a total disproportionate share qualifying percentage of 36.61 percent. The qualification for disproportionate share adjustment as well as the amount of adjustment noted below is tentative as Medicaid reimbursement is subject audit and cost settlement and adherence to the OB services requirement must be verified. The disproportionate share payment adjustment percentage as adjusted at audit shall be applied to both inpatient cost limits and then total allowable inpatient costs in accordance with the provisions outlined in the Medicaid State Plan, Attachment 4.19A, Item 1.

PROVIDER NAME:	DISPRO PYMT ADJ (%)
Allen Parish Hospital	174.95%
Ascension General Hospital	59.17%
Assumption General Hospital	321.97%
Caddo Oaks Medical Center	196.71%
Dixon Medical Center	208.05%
Citizens Medical Center	42.93%
Dequincy Memorial Hospital	6.94%
Ouachita Medical Center	296.87%
St. Charles-Luling	41.92%
Caldwell Memorial Hospital	19.90%
Acadia St. Landry Hospital	22.68%
Bienville General Hospital	27.34%
New Orleans General	210.31%
East Carroll Parish	27.46%
Riverwest Medical Center	41.73%
West Carroll Parish	6.51%
Riverland Medical Center	4.00%
L. S. Huckaby	11.98%
Bayou Rapides Medical Center	174.92%
Children's Hospital	136.56%
Savoy Medical Center	4.00%
Tulane Medical Center	25.30%
United Medical Center	183.61%
LSU Medical Center	266.31%
E. A. Conway	290.58%
Earl K. Long	231.03%
Huey P. Long	307.20%
University Medical Center	276.06%
W. O. Moss	319.83%
Lallie Kemp	246.15%
Washington-St. Tammany	228.30%
South La. Medical Center	242.28%
Charity Hospital of New Orleans	316.11%
Villa Feliciana	71.15%
Southeast Louisiana State	240.08%
Central Louisiana State	202.43%

Greenwell Springs State	194.50%
New Orleans Adolescent Hospital	236.00%

J. Christopher Pilley
Secretary

POTPOURRI

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

Notice is hereby given that in the Emergency Rule appearing in the July 20, 1992 issue of the *Louisiana Register* (page 675) regarding the enactment of rules relating to the practice of Utilization Review in Louisiana, the opening sentence should have read, "The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule."

J. Christopher Pilley
Secretary

POTPOURRI

Department of Insurance

Notice of Approval
by the Commissioner of Insurance

In accordance with the provisions of R.S. 22:1395.18B the Commissioner of Insurance hereby gives notice of his approval of the summary document prepared by the Louisiana Life and Health Insurance Guaranty Association (LLHIGA). The document, which summarizes the coverages and limitations provided by LLHIGA, was approved by the commissioner on August 10, 1992. Under the provisions of R.S. 22:1395.18B effective 60 days from the date of approval no insurer may deliver a policy or contract of insurance, as described in R.S. 22:1395.3(B)(1), without delivering to the policyholder or contract holder a copy of the summary document. The summary document may be delivered with the policy or contract or prior to delivery of those documents.

Copies of the summary document may be obtained from the LLHIGA or from the Department of Insurance at the following respective addresses: LLHIGA, Drawer 44126, Baton Rouge, LA 70804; Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214.

James H. "Jim" Brown
Commissioner

POTPOURRI

Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 55 claims in the amount of $128,163.97 were received in the month of July 1992, no claims were paid, and six claims were denied.

Loran C. coordinates of reported underwater obstructions are:

26680	46977	Cameron
26781	46979	Cameron
28565	46862	Jefferson
28221	46820	Lafourche
28790	47048	Lake Ponchartrain
28706	47029	Orleans
28611	46865	Plaquemines
28640	46864	Plaquemines
28733	46693	Plaquemines
29002	46926	St. Bernard
29027	46940	St. Bernard
27598	46895	St. Mary
27735	46884	Terrebonne
28038	46842	Terrebonne
28086	46832	Terrebonne
28196	46836	Terrebonne

A list of claimants, and amounts paid, may be obtained from the Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

John F. Ales
Secretary

POTPOURRI

Department of Social Services
Office of Community Services

The Department of Social Services, Office of Community Services, published an emergency rule in the *Louisiana Register*, July 20, 1992, on pages 683-684 concerning Child Protective Services Prioritization.

The Department of Social Services is planning statewide public hearings on the rule prior to proposing revised regulations through the rulemaking process. Times, dates and places will be announced in newspapers in major cities.

Gloria Bryant-Banks
Secretary

POTPOURRI

Department of Social Services
Office of Family Support

Notice is hereby given that the Department of Social Services, Office of Family Support, has eliminated the six month limitation on payments in the AFDC-Unemployed Par-

ent Program. Act 416 of the 1992 Regular Session of the Louisiana Legislature repealed Subsection (C) of R.S. 46:238 which contained the six month time limit. Beginning August 1, 1992, the restriction of cash payment to six months per year no longer applies.

Gloria Bryant-Banks
Secretary

POTPOURRI

Department of Social Services
Office of Family Support

Notice is hereby given that the Department of Social Services, Office of Family Support, in compliance with federal General Notice regulations at 56 FR 41325-31, intends to refer delinquent Food Stamp claims to the Internal Revenue Service for the purpose of offsetting federal income tax refunds to recover claims against individuals for benefits overissued due to non-agency error. The claims which will be submitted are those which are delinquent for at least three months but no more than 10 years unless reduced to final judgement at the time the offset is made.

This action is being taken because the Louisiana Department of Social Services has accepted the offer of the United States Department of Agriculture, Food and Nutrition Service, to participate in the second year of a pilot project to test the effectiveness of this means of collection for Food Stamp claims. Letters notifying all affected individuals of this action will be mailed to those persons beginning September 1992.

Authority for this project is contained in the Louisiana Administrative Code, Title 67, Part III, Subpart III, Chapter 19, Subchapter P, §19105.D.

Gloria Bryant-Banks
Secretary

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